



**STATE OF MISSOURI
OFFICE OF ADMINISTRATION
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT (DPMM)
REQUEST FOR PROPOSAL**

RFP NO. B2Z05026
TITLE: Medical & Life Data Management Tool
ISSUE DATE: 10/29/04

REQ#: NR 605 3E2300000005
BUYER: JULIE BRANIGAN
PHONE NO.: (573) 751-4148
E-MAIL: Julie.Branigan@oa.mo.gov

RETURN PROPOSAL NO LATER THAN: 11/23/04 AT 2:00 PM

MAILING INSTRUCTIONS: Print or type **RFP Number** and **Return Due Date** on the lower left hand corner of the envelope or package. Proposals must be in DPMM office (301 W High St, Rm 630) by the return date and time.

RETURN PROPOSAL TO: DPMM
301 WEST HIGH ST, RM 630
JEFFERSON CITY MO 65101

CONTRACT PERIOD: DATE OF AWARD THROUGH JUNE 30, 2007

DELIVER SUPPLIES/SERVICES FOB DESTINATION TO THE FOLLOWING ADDRESS:

**MISSOURI DEPARTMENT OF TRANSPORTATION
INFORMATION SERVICES, APPLICATION TECHNOLOGY—FINANCE
P. O. BOX 270, 602 W. MAIN
JEFFERSON CITY, MO 65102**

The offeror hereby declares understanding, agreement and certification of compliance to provide the items and/or services, at the prices quoted, in accordance with all requirements and specifications contained herein and the Terms and Conditions Request for Proposal (Revised 08/28/04). The offeror further agrees that the language of this RFP shall govern in the event of a conflict with his/her proposal. The offeror further agrees that upon receipt of an authorized purchase order from the Division of Purchasing and Materials Management or when this RFP is countersigned by an authorized official of the State of Missouri, a binding contract shall exist between the offeror and the State of Missouri.

SIGNATURE REQUIRED

AUTHORIZED SIGNATURE		DATE	
PRINTED NAME		TITLE	
COMPANY NAME			
MAILING ADDRESS			
CITY, STATE, ZIP			
FEDERAL EMPLOYER ID NO.		SOCIAL SECURITY NO. IF FEDERAL EMPLOYER ID NO. NOT APPLICABLE	
PHONE NO.	FAX NO.	E-MAIL ADDRESS	

NOTICE OF AWARD (STATE USE ONLY)

ACCEPTED BY STATE OF MISSOURI AS FOLLOWS:			
CONTRACT NO.		VENDOR NO.	
CONTRACT PERIOD			
BUYER		DATE	
DIRECTOR			

1. INTRODUCTION

1.1 Purpose:

- 1.1.1 This document constitutes a request for sealed proposals from prospective offerors for the acquisition of a web-based application for Medical and Life Data Management System for the Missouri Department of Transportation (MoDOT) in accordance with the requirements and provisions stated herein. This system shall be referred to throughout this document as “the MLDM System” or “the system” or “the solution”.
- 1.1.2 It is the intent of this RFP that the MLDM System will be a web based system which includes integrated software that will replace old, outdated, unsupported, stand-alone existing applications plus provide new software modules that will integrate with each other. The contractor shall be required to build interfaces between new systems and MoDOT legacy systems.
- 1.1.3 The contractor shall be responsible for providing the entire MLDM solution and all modules required. However, it is possible that the contractor will need to partner and/or subcontract portions of the performance/product requirements to other business enterprises in order to fulfill the requirements of this contract. Therefore the contract award shall be based on an all or none contract award. All portions of the system solution MUST integrate and operate with each other in accordance with the requirements described herein.

1.2 Pre-Proposal Conference:

- 1.2.1 **A pre-proposal conference regarding this Request for Proposal will be held on Monday, November 8, 2004 at 10:00 a.m., in Room 500 of the Harry S Truman Building, 301 West High Street, Jefferson City, Missouri.** *It is anticipated that this conference will last approximately two hours.*
- 1.2.2 All potential offerors are encouraged to attend the pre-proposal conference in order to ask questions and provide comments on the RFP. Attendance is not required in order to submit a response; however, offerors are encouraged to attend since information relating to this RFP will be discussed in detail. Offerors should bring a copy of the RFP since it will be used as the agenda for the pre-proposal conference.
- 1.2.3 Offerors are strongly encouraged to advise the Division of Purchasing and Materials Management within three (3) working days prior to the scheduled pre-proposal conference of any special accommodations needed for persons with disabilities who will be attending the conference so that these accommodations can be made.

1.3 E-mail Questions:

- 1.3.1 Offerors are encouraged to e-mail their questions regarding the RFP prior to Friday, November 5, 2004 to: Julie Branigan, Buyer, Division of Purchasing and Materials Management, at Julie.Branigan@oa.mo.gov.

1.4 Mandatory Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) Participation Requirements:

- 1.4.1 This RFP requires MBE and WBE participation in the performance of the contract. Refer to sections 2.19 and 6 and all subparagraphs for specific participation requirements and opportunities.

1.5 Offeror's Contacts:

- 1.5.1 Offerors and their agents (including subcontractors, employees, consultants, or anyone else acting on their behalf) must direct all of their questions or comments regarding the RFP, the evaluation, etc. to the buyer of record indicated on the first page of this RFP. If MBE/WBE subcontracting requirements are included in the RFP, the offeror may contact the Office of Equal Opportunity regarding MBE/WBE certification or subcontracting. Offerors and their agents may not contact any other state employee regarding any of these matters during the solicitation and evaluation process. Inappropriate contacts are grounds for suspension and/or exclusion from specific procurements. Offerors and their agents who have questions regarding this matter should contact the buyer of record.

1.6 Bonding Requirements:

- 1.6.1 Proposal Security Deposit: Offeror must submit a proposal security deposit in the amount of \$10,000. See *Offeror's Instructions and Requirements*, Section 6.
- 1.6.2 Performance Security Deposit: Within thirty (30) days after contract award, the contractor must submit a performance security deposit in the amount equal to **\$2,000,000 (Two Million Dollars)**. See *Contractual Requirements*, Section 2.

1.7 Background Information:

- 1.7.1 The desired Medical and Life Data Management Tool will replace the existing mainframe legacy system with a web-based system using currently supported MoDOT standard technology. The new system will provide the MoDOT's Employee Benefits Unit with a medical and life data management application that will track payment and benefit information for active employees, retirees, spouses, dependents, and surviving spouses. The system will also include accounting/financial information that will be used for various reporting requirements including reporting information to the medical and insurance board. A standard reporting capability will also be created to allow the client to query the application's database to create various reports and for use in decision-making scenarios such as when the Highway and Transportation Commission needs to determine if rates should be increased or decreased. The new solution will also allow employees in other functional business units and districts to enter and view information on-line.
- 1.7.2 The following applications are owned by the MoDOT Benefits Unit and will be replaced with the implementation of the new solution.
- a. **Medical and Insurance System** – This is a mainframe application where medical and life insurance information about applicants is entered at the Benefits Units after being sent in from districts and functional business units. The information is used to track membership and maintain financial information. Many financial reports are generated from the system including reports that assist the insurance board with their decision-making.
 - b. **Medical and Life Insurance Billing System** – Information is entered manually into Lotus 123 spreadsheets. These spreadsheets are used to balance the HMO, SAM II and MoDOT's paymaster reports. This information is obtained from the current medical and life insurance system.
 - c. **Association Life** – This is a mainframe application that contains information about Association Life participates and financial information. Information is entered at the MoDOT Benefits Units after being sent in from district and functional business unit.

1.8 Attachments:

1.8.1 The offeror is advised that attachments exist to this document, which provide additional information and instruction. However, due to the size of the electronic files, they are not able to be incorporated into this document but, instead, must be downloaded from the State of Missouri website. Please refer to www.moolb.state.mo.us. The attachments shall be a separate downloadable document located on the same web page where the RFP document B2Z05026 is downloadable. It shall be the sole responsibility of the offeror to obtain the attachments. The offeror shall not be relieved of any responsibility for performance under the contract due to the failure of the offeror to obtain copies of the attachments. The following describes the Attachments to this RFP:

- a. Attachment 1 Medical and Life Insurance Forms
- b. Attachment 2 IT Accessibility Conformance Matrix

2. CONTRACTUAL REQUIREMENTS

2.1 Definitions: *The following definitions shall apply throughout this document:*

- 2.1.1 **Acceptance Testing** shall mean that the proposed product shall be tested to ensure that it meets and/or exceeds the mandatory technical and performance specifications described herein.
- 2.1.2 **Application Program Interface (API)** shall mean the specific method prescribed by a computer operating system or by an application program by which a programmer writing an application program can make requests of the operating system or another application. The formal requests for services and means of communicating with other programs that a programmer uses in writing an application program.
- 2.1.3 **CPU** shall mean any computer or computer system that is used in the State of Missouri's business to store, process, or retrieve data or perform other functions using Operating Systems and applications software as described herein.
- 2.1.4 **Critical Program Error** shall mean any Program Error, whether or not known to State of Missouri, which prohibits or significantly impairs use of the Licensed Software as set forth in the RFP.
- 2.1.5 **Customer** shall mean an individual or business of the state that receives invoices that are produced by the system.
- 2.1.6 **Documentation** shall mean the user's manuals and any other materials in any form or medium customarily provided by the contractor to the users of the Licensed Software and other Products which will provide the State of Missouri sufficient information to operate, diagnose, and maintain the Licensed Software and other Products properly, safely and efficiently.
- 2.1.7 **Entity Relationship** shall mean to illustrate the logical structure of the database.
- 2.1.8 **Installation Date** shall mean the date upon which the contractor installs the Licensed Software including successful completion of the contractor's standard diagnostic test at the State of Missouri's site to determine that the Licensed Software is properly installed with the State of Missouri's approval of the results thereof. At the discretion of the state agency, the agency may perform additional testing of the system, which may involve demonstration that Licensed Software is executable by invoking the primary function of each major component on the platform.

- 2.1.9 **Interface** shall mean the software product must have a mechanism built into the product that supports transferring data in a supported format to another software product or the product must operate as proposed when operating in conjunction with another product.
- 2.1.10 **Licensed Software** shall include any and all software provided by the contractor and its Documentation to which State of Missouri obtains or is granted any rights under this contract.
- 2.1.11 **Licensee** shall mean the party to whom a license is granted. For purposes of this RFP B2Z04032, the Licensee shall be the State of Missouri Division of Information Services.
- 2.1.12 **May** means that a certain feature, component, or action is permissible, but not required.
- 2.1.13 **Module** shall mean a collection of routines and data structures that perform a specific function of the Licensed Software.
- 2.1.14 **Must** means that a certain feature, component, or action is a mandatory condition.
- a. The offeror's proposal response shall not take exception to or conflict with the mandatory requirements of the RFP (denoted by the words "must" and "shall"). Failure to fulfill mandatory requirements shall make the offeror's proposal response to be considered unacceptable and thus may result in the proposal response no longer being given consideration in the evaluation process. The State of Missouri shall not award a noncompliant proposal.
- 2.1.15 **Offeror** means the person or organization that responds to an RFP by submitting a proposal with prices to provide the equipment, products, supplies, and/or services as required in the RFP document.
- 2.1.16 **Operating System** shall mean the control program in a computer that provides the interface to the computer hardware and peripheral devices, and the usage and allocation of memory resources, processor resources, input/output resources, and security resources.
- 2.1.17 **Platform** shall mean the underlying computer system on which the software application programs can run.
- a. A change in platforms shall mean that the specific hardware and Operating System combination that is described herein has changed/switched to a significantly different hardware and Operating System combinations to the extent that a different version of the Licensed Software Product is required to execute properly in the environment established by such changed hardware and Operating System combination.
- 2.1.18 **Product** shall mean a Module, a System, or any other software-related item (which may include hardware) provided by the contractor to the State of Missouri.
- 2.1.19 **Program Error** shall mean a code in the Licensed Software which produces unintended results or actions, or which produces results or actions other than those described in the Specifications. A Program Error includes, without limitation, any "Critical Program Error."
- 2.1.20 **Program Set** shall mean the group of programs and Products, including the Licensed Software specified herein plus any additional programs and Products licensed by the State of Missouri under this contract for use by the State of Missouri.
- 2.1.21 **Project** shall mean the total of all software, hardware, documentation, and services to be provided by the contractor under this contract.

- 2.1.22 **Release** shall mean the distribution of a new product or new function and program fixes based on or for an existing product. Such software releases are provided to the licensee at no additional cost if the licensee is currently subscribed to the contractor's maintenance support services.
- 2.1.23 **RSMo (Revised Statutes of Missouri)** refers to the body of laws enacted by the Legislature, which govern the operations of all agencies of the State of Missouri. Chapter 34 of the statutes is the primary chapter governing the operations of Division of Purchasing and Materials Management (DPMM).
- 2.1.24 **Shall** has the same meaning as the word must.
- 2.1.25 **Should** means that a certain feature, component and/or action is desirable but not mandatory. Note: meeting desirables is usually given positive consideration in the subjective evaluation.
- 2.1.26 **System** shall mean any collection or aggregation of two (2) or more Modules of the licensed software that is designed to provide a specific functionality.
- 2.1.27 **Upgrade** shall be any improvement or change in the software that improves or alters its basic function but does not require a separate license. Upgrades shall be inclusive of all new releases. Such software upgrades are provided to the licensee at no additional cost if the licensee is currently subscribed to the contractor's maintenance support services.
- 2.1.28 **Version** shall mean a separate licensed program, based on an existing licensed program that has significant new code or new function(s).
- 2.1.29 **Warranty Period** shall commence upon installation by the contractor and shall terminate upon expiration of ninety (90) calendar days or upon expiration of the contractor's offered Warranty Period, whichever period is later.
- 2.1.30 **Workflow** shall be the ability to efficiently route, track and escalate any document to any work queue or individual based on manual or rule-based methods.

NOTE: Please refer to the State of Missouri Terms and Conditions Section 1 found at near the end of this document for further definitions/terminology that applies to the RFP.

2.2 Performance Security Deposit:

- 2.2.1 The contractor must furnish a performance security deposit in the form of an original bond issued by a surety company authorized to do business in the State of Missouri (no copy or facsimile is acceptable), check, cash, bank draft, or irrevocable letter of credit to the Office of Administration, Division of Purchasing and Materials Management within thirty (30) days after award of the contract and prior to performance of service under the contract or any installation of equipment or software product. The performance security deposit must be made payable to the State of Missouri in an amount equal to \$2,000,000 (two million dollars). The contract number and contract period must be specified on the performance security deposit. In the event the Division of Purchasing and Materials Management exercises an option to renew the contract for an additional period, the contractor shall maintain the validity and enforcement of the security deposit for the said period, pursuant to the provisions of this paragraph, in an amount stipulated at the time of contract renewal, not to exceed \$3,000,000 for the option period. NOTE: The performance bond shall be required for the implementation, delivery, testing, and production cut over of the system solution. At the point in the contract life span, when the State is renewing the contract for just maintenance support only, then the formal contract renewal amendment shall indicate that the performance bond shall no longer be required.

2.3 Liquidated Damages:

- 2.3.1 The contractor shall agree and understand that the provision of the Medical and Life Data Management (MLDM) system in accordance with the finalized implementation schedule (see Section 4 paragraph 4.2.1 and all subparagraphs thereof) is considered critical to the efficient operations of the State of Missouri Department of Transportation. However, since the amount of actual damages would be difficult to establish in the event the contractor fails to comply with the requirements, the contractor shall agree and understand that the amount identified below as liquidated damages shall be reasonable and fair under the circumstances.
- 2.3.2 In the event that the contractor fails to meet the requirements specified below, the contractor shall be assessed liquidated damages in which the identified requirement is not completed.
- a. **Implementation Schedule Milestones:** The contractor acknowledges and agrees that it shall be subject to damages in the amount of \$500 per day (weekends and holidays included) per milestone for each day the stated milestone(s) of contractor's finalized implementation plan are not met. The liquidated damages assessed for Implementation Schedule Milestones shall not exceed \$15,000 per milestone. Excepting therefrom shall be any delays caused by Force Majeure events or written documentation of delays caused by the state agency. Such delays, if any, shall extend the milestone(s) on a day-for-day basis.
- 2.3.3 The contractor shall also agree and understand that such liquidated damages shall either be deducted from the contractor's invoices pursuant to the contract or paid by the contractor as a direct payment to the state agency at the sole discretion of the state agency.
- 2.3.4 The contractor understands and agrees that the Division of Purchasing and Materials Management shall notify the contractor in writing of any claim for liquidated damages pursuant to this section within ninety (90) days of the state learns of contractor's failure to perform in accordance with the terms and conditions of this contract agreement. Delay in reporting such claim (after 90 days) to the contractor will void the state's ability to make claim for liquidated damages.
- 2.3.5 The contractor understands and agrees that excessive assessment of liquidated damages shall be sufficient reason, though must not be considered the only reason, for which the State may terminate the contract and make a claim for the Performance Security Deposit. Excessive assessment of liquidated damages shall be determined as equal or greater than 15% of the total contract amount (see Exhibit A, Pricing).
- 2.3.6 The contractor shall understand that the liquidated damages described herein shall not be construed as a penalty.
- 2.3.7 The contractor shall agree and understand that all assessments of liquidated damages shall be within the discretion of the State of Missouri and shall be in addition to, not in lieu of, the rights of the State of Missouri to pursue other appropriate remedies.

2.4 Force Majeure:

- 2.4.1 The contractor shall not be liable for any excess costs for delayed delivery of goods or services to the State of Missouri, if the failure to perform the contract arises out of causes solely beyond the control of, and without the fault or negligence of the contractor ("Force Majeure Events"). Such causes may include, however are not restricted to: Acts of God, fires, floods, epidemics, quarantine restrictions, strikes, and freight embargoes. Failure of the contractor to employ adequate personnel to complete the contract requirements shall not constitute a Force Majeure Event. In all cases, the failure to perform must be beyond the control of, and without the fault or negligence of, either the contractor or any subcontractor(s). The contractor shall take all possible steps to recover from any such occurrences as soon as possible. The contractor must give written

notice of any Force Majeure Event to the agency within 24 hours after its occurrence in order to receive the liability protections of this paragraph.

2.5 Contract Period:

- 2.5.1 The original contract period shall be Date of Award through June 30, 2007. The contract shall not bind, nor purport to bind, the state for any contractual commitment in excess of the original contract period. All terms and conditions, requirements and specifications of the contract, including prices, shall remain the same and apply during the original contract period.

2.6 Renewal Options:

- 2.6.1 The Division of Purchasing and Materials Management shall have the right, at its sole option, to renew the contract for on-going software maintenance and all other support services for three (3) additional one-year periods, or any portion thereof. In the event the Division of Purchasing and Materials Management exercises such right, all terms and conditions, requirements and specifications of the contract shall remain the same and apply during the renewal period, pursuant to applicable option clauses of this document.
- 2.6.2 In addition to the above renewal options, the Division of Purchasing and Materials Management shall have the right, at its sole option, to renew the contract for on-going maintenance, training, and consulting support services for five (5) additional one-year periods, or any portion thereof. In the event the Division of Purchasing and Materials Management exercises such right, all other terms and conditions, requirements and specifications of the contract applicable to the above-referenced services shall remain the same and apply during the extension period(s) with the exception of price. In no event shall pricing increases exceed 4% of the previous year's pricing during these extension periods.
- 2.6.3 If the option for renewal is exercised by the Division of Purchasing and Materials Management, the contractor shall agree that the prices for the renewal period shall not exceed the maximum percent of increase for the applicable renewal period stated on the Pricing Page of the contract.
- 2.6.4 If renewal percentages are not provided, then prices during renewal periods shall be the same as during the original contract period.
- 2.6.5 The Division of Purchasing and Materials Management shall not automatically exercise its option for renewal based upon the maximum percent of increase and reserves the right to offer or to request renewal of the contract at a price less than the maximum percent of increase stated.

2.7 Price:

- 2.7.1 All prices shall be as indicated on the Pricing Page. The state shall not pay nor be liable for any other additional costs including but not limited to taxes, shipping charges, insurance, interest, penalties, termination payments, attorney fees, liquidated damages, etc.
- 2.7.2 Unless stated in Exhibit A, the state shall assume that absolutely no other fees or charges, including upgrade fees, will be assessed to the state whatsoever in connection with the license granted herein and to satisfy the RFP requirements. Therefore, the successful offeror shall be responsible for any additional costs.

2.8 Payments:

- 2.8.1 The contractor shall understand and agree the state reserves the right to make contract payments to the contractor through electronic funds transfer (EFT). Therefore, prior to any payments becoming due under the contract, the contractor must return a completed state Vendor ACH/EFT Application which is downloadable from the following website:

<http://www.oa.mo.gov/purch/vendorinfo/vendorach.pdf>. Each contractor invoice must contain a unique invoice number. The invoice number will be listed on the state's EFT addendum record to enable the contractor to properly apply state payments to invoices. The contractor must comply with all other invoicing requirements stated in the RFP.

- 2.8.2 All payments shall be made in arrears based on agency receipt of each deliverable component of the system.
- 2.8.3 The State of Missouri may make advance deposits/payment for software maintenance (upgrades/new releases/technical support-type agreements) payments only.

2.9 Confidentiality:

- 2.9.1 All reports, files, data, and materials accessed or acquired by the contractor as a result of the contract shall remain the property of the Missouri Department of Transportation. The contractor shall agree and understand that all information accessed or acquired by the contractor as a result of the contractor's performance under the contract shall be confidential and that no reports, files, data, or materials so accessed or acquired shall be disclosed by the contractor to any person whatsoever without the prior written consent of the Missouri Department of Transportation. Violation of this provision may result in the imposition of criminal penalties.
- 2.9.2 To the extent the contractor may have access to any report, return or other information received by the Missouri Department of Transportation in connection with the administration of the tax laws of this State, the contractor specifically shall comply with Missouri Revised Statutes, Section 32.057 and Section 32.091. Any person making unlawful disclosure of information in violation of such Section shall, upon conviction, be guilty of a Class D felony.

2.10 Business Associate Provisions:

- 2.10.1 Health Insurance Portability and Accountability Act of 1996 (HIPAA) - The state agency is subject to and must comply with provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all regulations promulgated pursuant to authority granted therein. The contractor constitutes a "Business Associate" of the state agency as such term is defined in the Code of Federal Regulations (CFR) at 45 CFR 160.103. Therefore, the term, "contractor" as used in this section shall mean "Business Associate."
 - a. The contractor shall agree and understand that for purposes of the Business Associate Provisions contained herein, terms used but not otherwise defined shall have the same meaning as those terms defined in 45 CFR parts 160 and 164, including, but not limited to the following:
 - 1) "Individual" shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502 (g).
 - 2) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
 - b. The contractor shall agree the state agency must comply with 45 CFR 160 and 45 CFR 164, as currently in effect and as may be amended at some later date, and that to achieve such compliance, the contractor must appropriately safeguard Protected Health Information (as that term is defined in 45 CFR 164.501), which the contractor receives from or creates or receives on behalf of the state agency. To provide reasonable assurance of appropriate safeguards, the contractor shall comply with the business associate provisions stated herein.

- c. The state agency and the contractor agree to amend the contract as is necessary for the state agency to comply with the requirements of the Privacy Rule and HIPAA requirements.
- d. For additional information, 45 CFR 160 and 45 CFR 164 can be downloaded from the Internet at the following Internet addresses. However, the most current requirements shall be those which are published in the Code of Federal Regulations.
 - 1) 45 CFR 160 can be downloaded at:
http://www.access.gpo.gov/nara/cfr/waisidx_03/45cfr160_03.html
 - 2) 45 CFR 164 can be downloaded at
http://www.access.gpo.gov/nara/cfr/waisidx_03/45cfr164_03.html

2.10.2 Permitted uses and disclosures of Protected Health Information:

- a. The contractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the state agency as specified in the contract, provided that such use or disclosure would not violate the Privacy Rule as the Privacy Rule applies to the state agency.
- b. The contractor may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1) and shall notify the state agency by no later than ten (10) calendar days after the contractor becomes aware of the disclosure of the Protected Health Information.
- c. If required to properly perform the contract and subject to the terms of the contract, the contractor may use or disclose Protected Health Information if necessary for the proper management and administration of the contractor's business.
- d. If the disclosure is required by law, the contractor may disclose Protected Health Information to carry out the legal responsibilities of the contractor.
- e. The contractor may use Protected Health Information to provide Data Aggregation services to the state agency as permitted by 45 CFR 164.504(e)(2)(i)(B).

2.10.3 Obligations of the Contractor:

- a. The contractor shall not use or disclose Protected Health Information other than as permitted or required by the contract or as otherwise required by law.
- b. The contractor shall use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by the contract. Such safeguards may include, but shall not be limited to:
 - 1) Workforce training on the appropriate uses and disclosures of Protected Health Information pursuant to the terms of the contract.
 - 2) Policies and procedures implemented by the contractor to prevent inappropriate uses and disclosures of Protected Health Information by its workforce.
 - 3) Any other safeguards necessary to prevent the inappropriate use or disclosure of Protected Health Information.
- c. The contractor shall require that any agent or subcontractor to whom the contractor provides any Protected Health Information received from, created by, or received by the contractor pursuant to the contract, also agrees to the same restrictions and conditions stated herein that apply to the contractor with respect to such information.

- d. By no later than ten (10) calendar days of receipt of a written request from the state agency, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, the contractor shall make the contractor's internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, created by, or received by the contractor on behalf of the state agency available to the state agency and/or to the Secretary of the Department of Health and Human Services or designee for purposes of determining compliance with the Privacy Rule.
- e. The contractor shall document any disclosures and information related to such disclosures of Protected Health Information as would be required for the state agency to respond to a request by an individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528. By no later than five (5) calendar days of receipt of a written request from the state agency, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, the contractor shall provide an accounting of disclosures of Protected Health Information regarding an individual to the state agency.
- f. In order to meet the requirements under 45 CFR 164.524, the contractor shall, within five (5) calendar days following a state agency request, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, provide the state agency access to the Protected Health Information in an individual's Designated Record Set. However, if requested by the state agency, the contractor shall provide access to the Protected Health Information in a Designated Record Set directly to the individual for whom such information relates.
- g. At the direction of the state agency, the contractor shall promptly make any amendment(s) to Protected Health Information in a Designated Record Set pursuant to 45 CFR 164.526.
- h. By no later than five (5) calendar days after the contractor becomes aware of any use or disclosure of the Protected Health Information not permitted or required as stated herein, the contractor shall notify the state agency's Privacy Officer, in writing, of the unauthorized use or disclosure and shall take immediate action to stop the unauthorized use or disclosure. The contractor shall include a description of any remedial action taken to mitigate any harmful effect of such disclosure. The contractor shall also provide the state agency's Privacy Officer with a proposed written plan of action for approval that describes plans for preventing any such future unauthorized uses or disclosures.

2.10.4 Obligations of the State Agency:

- a. The state agency shall notify the contractor of limitation(s) that may affect the contractor's use or disclosure of Protected Health Information, by providing the contractor with the state agency's notice of privacy practices in accordance with 45 CFR 164.520.
- b. The state agency shall notify the contractor of any changes in, or revocation of, authorization by an individual to use or disclose Protected Health Information.
- c. The state agency shall notify the contractor of any restriction to the use or disclosure of Protected Health Information that the state agency has agreed to in accordance with 45 CFR 164.522.
- d. The state agency shall not request the contractor to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule as the Privacy Rule applies to the state agency.

2.10.5 Expiration/Termination/Cancellation - Except as provided in the subparagraph below, upon the expiration, termination, or cancellation of the contract for any reason, the contractor shall return to the state agency or shall destroy all Protected Health Information received by the contractor from the state agency, or created or received by the contractor on behalf of the state agency, and shall not retain any copies of such Protected Health Information. This provision shall also apply to Protected Health Information that is in the possession of subcontractors or agents of the contractor.

- a. In the event the contractor determines and the state agency agrees that returning or destroying the Protected Health Information is not feasible, the contractor shall extend the protections of the contract to the Protected Health Information for as long as the contractor maintains the Protected Health Information and shall limit the use and disclosure of the Protected Health Information to those purposes that made return or destruction of the information infeasible. If at any time it becomes feasible to return or destroy any such Protected Health Information maintained pursuant to this paragraph, the contractor must notify the state agency and obtain instructions from the state agency for either the return or destruction of the Protected Health Information.

2.10.6 Breach of Contract - In the event the contractor is in breach of contract with regard to the business associate provisions included herein, the contractor shall agree and understand that in addition to the requirements of the contract related to cancellation of contract, if the state agency determines that cancellation of the contract is not feasible, the State of Missouri may elect not to cancel the contract, but the state agency shall report the contractual breach to the Secretary of the Department of Health and Human Services.

2.11 Property of State:

2.11.1 All reports, documentation, and material developed or acquired by the contractor as a direct requirement specified in the contract shall become the property of the State of Missouri. The contractor shall agree and understand that all discussions with the contractor and all information gained by the contractor as a result of the contractor's performance under the contract shall be confidential and that no reports, documentation, or material prepared as required by the contract shall be released to the public without the prior written consent of the state agency.

2.12 Contractor Liability:

2.12.1 The contractor shall be responsible for any and all personal injury (including death) or property damage as a result of the contractor's negligence involving any equipment, product, or service provided under the terms and conditions, requirements and specifications of the contract. In addition, the contractor assumes the obligation to save the State of Missouri, including its agencies, employees, and assignees, from every expense, liability, or payment arising out of such negligent act. The contractor also agrees to hold the State of Missouri, including its agencies, employees, and assignees, harmless for any negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the contractor under the terms of the contract.

2.12.2 The contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the State of Missouri, including its agencies, employees, and assignees.

2.12.3 Under no circumstances shall the contractor be liable for any of the following: (1) third party claims against the state for losses or damages (other than those listed above); (2) loss of, or damage to, the state's records or data; or (3) economic consequential damages (including lost profits or savings) or incidental damages, even if the contractor is informed of their possibility.

2.6.4 Circumstances may arise where, because of a default on the contractor's part or other liability, the state is entitled to recover damages from the contractor. In each such instance, regardless of the basis on which the state is entitled to claim damages from the contractor, the contractor is liable only for:

- a. payments referred to in intellectual property rights and patent and copyright terms;
- b. bodily injury (including death) and damage to real property and tangible personal property; and
- c. software license fees paid (the software license fees paid also applies to any subcontractors and program developers).

2.13 No Actions, Suits, or Proceedings:

2.13.1 The contractor warrants that there are no actions, suits, or proceedings, pending or threatened, that will have a material adverse effect on the contractor's ability to fulfill its obligations under this contract. The contractor further warrants that it will notify the State of Missouri immediately if the contractor becomes aware of any action, suit, or proceeding, pending or threatened, that will have material adverse effect on contractor's ability to fulfill the obligations under this contract.

2.14 Warranty of Contractor Capability:

2.14.1 The contractor warrants that it is financially capable of fulfilling all requirements of this contract, that there are no legal proceedings against it that could threaten performance of this contract, and that the contractor is a validly organized entity that has the authority to enter into this contract. The contractor is not prohibited by any loan, contract, financing arrangement, trade covenant, or similar restriction from entering into this contract.

2.15 Compatibility Warranty:

2.15.1 Unless otherwise stated herein, the contractor warrants that all products acquired pursuant to this contract shall be data, program, and communications compatible to all other products acquired pursuant to the contract and compatible to the software and hardware environment specified in RFP paragraph 3.1.10 subparagraph a. The contractor shall notify the agency as to any inaccuracies or known deficiencies or incompatibility with any related order.

2.16 Strategic Warranty:

2.16.1 The contractor hereby represents and warrants that it is currently committed to developing, delivering and furthering the system solution described herein as one of its strategic Systems, and there are currently no plans to de-emphasize or replace the system as one of its primary Systems. The contractor agrees that based on these representations, the agency will be making a significant investment in the system solution products that will be severely impacted should the contractor alter its strategy such that the system solution is not one of its primary Systems, and that calculation of the exact investment made and cost to convert to a new System will be impossible. Therefore, if the contractor does announce that it is altering its strategic commitment to provide the system proposed herein during the initial term of this contract agreement, then such a strategic commitment change may result in the forfeiture of the Performance Security Deposit.

2.17 Contractor Status:

2.17.1 The contractor represents himself or herself to be an independent contractor offering such services to the general public and shall not represent himself/herself or his/her employees to be an employee of the State of Missouri. Therefore, the contractor shall assume all legal and financial

responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the State of Missouri, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney fees); and damage of any kind related to such matters.

2.18 Subcontractors:

- 2.18.1 Any subcontracts for the products/services described herein must include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by the contractor and the State of Missouri and to ensure that the State of Missouri is indemnified, saved, and held harmless from and against any and all claims of damage, loss, and cost (including attorney fees) of any kind related to a subcontract in those matters described in the contract between the State of Missouri and the contractor. The contractor shall expressly understand and agree that he/she shall assume and be solely responsible for all legal and financial responsibilities related to the execution of a subcontract. The contractor shall agree and understand that utilization of a subcontractor to provide any of the products/services in the contract shall in no way relieve the contractor of the responsibility for providing the products/services as described and set forth herein. The contractor must obtain acknowledgement from the State of Missouri prior to establishing any new subcontracting arrangements and before changing any subcontractors.

2.19 Minority Business Enterprise/Women Business Enterprise (MBE/WBE) Participation:

- 2.19.1 The contractor must comply with the MBE/WBE participation levels committed to in the contractor's awarded proposal.
- 2.19.2 The contractor shall prepare and submit to the Division of Purchasing and Materials Management periodic reports detailing all payments to MBE/WBEs participating in the contract. The report must include MBE/WBE payments for the reporting period. The report shall be submitted on a monthly basis unless otherwise determined by the Division of Purchasing and Materials Management.
- 2.19.3 The Division of Purchasing and Materials Management and the Office of Equal Opportunity will monitor the contractor's compliance in meeting the MBE/WBE participation levels committed to in the contractor's awarded proposal. If the contractor's payments to participating MBE/WBEs are less than the amount committed to in the contract, the state may cancel the contract, suspend or debar the contractor from participating in future state procurements, or retain payments to the contractor in an amount equal to the value of the MBE/WBE participation commitment less actual payments made by the contractor to MBE/WBEs. If the Division of Purchasing and Materials Management determines that the contractor is in compliance with the MBE/WBE participation commitment, the state will release the retained funds.
- 2.19.4 If a participating MBE/WBE fails to retain their certification or is unable to satisfactorily perform, the contractor must obtain other certified MBE/WBEs to fulfill the MBE/WBE participation requirements committed to in the contractor's awarded proposal. The contractor must provide written notification to the Division of Purchasing and Materials Management for any new MBE/WBE participants. The Division of Purchasing and Materials Management will verify that the proposed MBE/WBE has been certified by the Office of Equal Opportunity and will provide acknowledgement of the new MBE/WBE participant to the contractor.
- 2.19.5 If the contractor cannot obtain a MBE/WBE replacement, the contractor must submit an Application for Waiver to the Division of Purchasing and Materials Management documenting all efforts made to secure an MBE/WBE replacement. The Division of Purchasing and Materials Management shall have sole discretion in determining if the actions taken by the contractor constitute a good faith effort to secure the participation of MBE/WBEs and whether the contract will be amended to change the MBE/WBE participation commitment.

2.20 Insurance:

- 2.20.1 The contractor shall understand and agree that the State of Missouri cannot save and hold harmless and/or indemnify the contractor or employees against any liability incurred or arising as a result of any activity of the contractor or any activity of the contractor's employees related to the contractor's performance under the contract.
- 2.20.2 Therefore, the contractor shall maintain adequate liability insurance in the form(s) and amount(s) sufficient to protect the State of Missouri, its agencies, its employees, its clients, and the general public against any loss, damage, and/or expense related to his/her performance under the contract. The insurance coverage shall include, but shall not necessarily be limited to, commercial general liability, professional liability, etc. In addition, business automobile liability coverage for the operation of any motor vehicle by the contractor must be maintained if the terms of the contract require any form of transportation services. The limits of liability shall be the following: commercial general liability with a combined single limit of 1,000,000 per occurrence and \$2,000,000 general aggregate business automobile liability with a combined single limit of \$1,000,000 per accident, and professional liability with an amount of \$2,000,000 per claim. The contractor shall provide written evidence of the insurance, in the form of a standard certificate of insurance from a 3rd Party insurer, to the state agency (i.e., MoDOT). Such evidence shall include, but shall not necessarily be limited to: effective dates of coverage, limits of liability, insurer's name, policy number, and contract title. Evidence of self-insurance coverage or of another alternate risk financing mechanism may be utilized provided that such coverage is verifiable and irrevocably reliable. The evidence of insurance coverage must be submitted before or upon award of the contract. In the event the insurance coverage is canceled, the state agency must be notified immediately.

2.21 Assignment:

- 2.21.1 The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the Division of Purchasing and Materials Management.
- 2.21.2 Consent to Assignment shall only be granted when: (A) the assignee agrees to be bound by all of the terms and conditions of this contract agreement, (B) the assignee operates the business as a continuation of such party's business, and (C) the credit worthiness of the assignee is no less than that of the assignor's worthiness. Any assignment of moneys shall be void and ineffective to the extent that such assignment attempts to impose upon the State of Missouri obligations to additional payment of such moneys, or to preclude the State of Missouri from dealing in all matters pertaining to the contract agreement including, but not limited to, the negotiation of amendments or the settlement of charges due.

2.22 Coordination:

- 2.22.1 The contractor shall fully coordinate all contract activities with those activities of the state agency. As the work of the contractor progresses, advice and information on matters covered by the contract shall be made available by the contractor to the state agency or the Division of Purchasing and Materials Management throughout the effective period of the contract.

2.23 Substitution of Personnel:

- 2.23.1 The contractor agrees and understands that the State of Missouri's agreement to the contract is predicated in part on the utilization of the specific individual(s) identified in the proposal. Therefore, the contractor agrees that no substitution of such specific individual(s) and/or personnel qualifications shall be made without the prior written approval of the state agency. The contractor further agrees that any substitution made pursuant to this paragraph must be equal or better than originally proposed and that the state agency's approval of a substitution shall not be

construed as an acceptance of the substitution's performance potential. The State of Missouri agrees that an approval of a substitution will not be unreasonably withheld.

2.24 Estimated Quantities:

- 2.24.1 The quantities indicated in this Request for Proposal are estimates that pertain to the total aggregate quantities that may be ordered throughout the stated contract period. The estimates do not indicate single order amounts unless otherwise stated. The State of Missouri makes no guarantees about single order quantities or total aggregate order quantities.

2.25 Inventions, Patents, and Copyrights:

- 2.25.1 The contractor shall report to the state promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of the contract of which the contractor has knowledge.
- 2.25.2 The state agrees that the contractor has the right to defend or at its option to settle, and the contractor agrees to defend at its own expense or at its option to settle, any claim, suit or proceeding brought against the state on the issue of infringement of any United States patent or copyright by any product, or any part thereof, supplied by the contractor to the state under this agreement. The contractor agrees to pay, subject to the limitations hereinafter set forth in this paragraph, any final judgment entered against the state on such issue in any suit or proceeding defended by the contractor. The state agrees that the contractor at its sole option shall be relieved of the foregoing obligations unless the state notifies the contractor promptly in writing of any such claim, suit, or proceeding, and at the contractor's expense, gives the contractor proper and full information needed to settle and/or to defend any such claim, suit, or proceeding. If the product, or any part thereof, furnished by the contractor to the state becomes, or in the opinion of the contractor may become, the subject of any claim, suit, or proceeding for infringement of any United States patent or copyright, or in the event of any adjudication that such product or part infringes any United States patent or copyright, or if the use, lease, or sale of such product or part is enjoined, the contractor may, at its option and its expense: (1) procure for the state the right under such patent or copyright to use, lease, or sell as appropriate such product or part, or (2) replace such product or part with other product or part suitable to the state, or (3) suitably modify such product or part, or (4) discontinue the use of such product or part and refund the aggregated payments and transportation costs paid therefore by the state, less a reasonable sum for use and damage. The contractor shall have no liability for any infringement based upon: (1) the combination of such product or part with any other product or part not furnished to the state by the contractor, or (2) the modification of such product or part unless such modification was made by the contractor, or (3) the use of such product or part in manner for which it was not designed.
- 2.25.3 The contractor shall not be liable for any cost, expense, or compromise, incurred or made by the state in conjunction with any issue of infringement without the contractor's prior written authorization. The foregoing defines the entire warranty by the contractor and the exclusive remedy of the state with respect to any alleged patent infringement by such product or part.

2.26 Replacement of Damaged Product:

- 2.26.1 The contractor shall be responsible for replacing any item received in damaged condition at no cost to the State of Missouri. This includes all shipping costs for returning non-functional items to the contractor for replacement.

2.27 Substitutions of Product/Services:

- 2.27.1 The contractor shall not substitute any item(s) that has been awarded to the contractor without the prior written approval of the Division of Purchasing and Materials Management.

- 2.27.2 The state reserves the right to allow the contractor to substitute any new product/service offered by the contractor on all unshipped and future orders if the quality is equal to or greater than the product/service under contract and if the prices are equal to or less than the contract prices. The Division of Purchasing and Materials Management shall be the final authority as to acceptability.

2.28 Preserving Rights to System Functionality:

- 2.28.1 In the event that the contractor deletes functions that were mandatory requirements of the RFP from the licensed system and offers those functions in other or new system application products, the portion of those other or new products which contain the functions in question, or the entire product, if the functions cannot be separated out, shall be provided to the agency under the terms of their license along with any applicable modifications necessary to make the product operate with the MLDM system, at no cost to the agency and shall be covered under the license/maintenance at no cost to the agency, unless otherwise agreed to by the agency in accordance with the Substitution of Product/Services section 2.26 of the RFP.
- 2.28.2 For any customization of the system to meet mandatory requirements of the RFP and for any customization of the system as a result of a Project Assessment Quotation (PAQ), the contractor shall be required to provide system technical support of those customizations through out the life of the contract. Any new versions or new releases of the system application acquired by the agency pursuant to this contract agreement must include the customizations of the system required herein or through a PAQ.

2.29 Prohibition of Electronic Self-Help:

- 2.29.1 The contractor agrees that in the event of any dispute with the State regarding an alleged breach of contract, the contractor shall not use any type of electronic means to prevent or interfere with the State's use of the licensed software without first obtaining a valid court order authorizing same in accordance with the State of Missouri Terms and Conditions Section 2 subparagraph e. The State shall be given proper written notice and an opportunity to be heard in connection with any request for such a court order. The contractor understands that it is foreseeable that a breach of this provision could cause substantial harm to the State. No limitation of liability, whether contractual or statutory, shall apply to a breach of this paragraph.

2.30 Termination:

- 2.30.1 At any time after July 1, 2005, the Division of Purchasing and Materials Management reserves the right to terminate the contract, for the convenience of the State of Missouri, without penalty or recourse, by giving written notice to the contractor at least thirty (30) calendar days prior to the effective date of such termination. The contractor shall be entitled to receive just and equitable compensation for services and/or supplies delivered to and accepted by the State of Missouri pursuant to the contract prior to the effective date of termination.

2.31 Grant of License:

- 2.31.1 The contractor shall grant the State of Missouri Department of Transportation an unlimited enterprise-wide permanent, perpetual legal software system license, which grants the agency and its customers the right to use and access the web-based system application indefinitely upon payment of the one-time licensing fees specified in Exhibit A Table A.1. The license shall allow multiple users both state agency users and authorized external users to use/access the system. The license shall have no limitations on the number of users and the number of CPUs (or workstations, desktop PCs, etc) and size of CPU on which the state agency can operate the licensed software system with no additional cost above the firm, fixed prices as specified in Exhibit A. There shall be no upgrade fee charges and no additional license fee charges for increasing the size and/or capacity of the CPUs on which the software is installed or runs for increasing the number of users. There shall be no limitations placed on the MLDM system with

regards to the size/capacity of the record/customer population in which the MLDM system shall encompass/utilize. NOTE: All components of the system's "licensed software" shall be for the specific purpose of operating the Medical and Life Data Management system as described herein.

- a. The unlimited enterprise-wide license for all off-the-shelf software shall allow for unlimited installation instances of the software on the chosen platform (i.e., development, test, integration, production, etc.) at no additional cost to the agency.
- b. The State of Missouri understands that maintenance and/or technical support fees may be required annually, in order to receive system updates (which include enhancements, corrections, modifications, additions and later versions of the licensed product) and/or technical support. However, it remains the sole option of the state to purchase maintenance or to decline this service. If the state chooses to discontinue maintenance, the software system would continue to be legally licensed for use.
- c. Any language or provisions contained in any "shrinkwrap" or "clickwrap" agreement of the contractor's products shall be of no force or effect. The State of Missouri shall not be bound by, any "shrink wrap license" which is bundled with the Products, the Documentation, or the Deliverables or any "disclaimers" or "click to approve" terms or conditions now or hereafter contained in the Products, the Documentation, the Deliverables or any web site which the state agency uses in connection with the contractor's Products or Services.

2.32 Intellectual Property Rights:

- 2.32.1 The contractor hereby warrants that it has and will continue to have free and clear title (including all proprietary rights) to any Products delivered to the State of Missouri or the right to license, transfer or assign any and all products that are licensed, transferred, or otherwise provided to the State by the contractor pursuant to this contract. Upon request of the State of Missouri, the contractor shall demonstrate that all aspects of the Licensed Software are its original work or that the contractor is authorized to sublicense on the terms stated herein. The State of Missouri shall not be liable in the event of loss, incident, destruction, theft, damage, etc., for the licensed software. It shall be the contractor's sole responsibility to obtain insurance coverage for such loss in an amount that the contractor deems appropriate.

2.33 Software Piracy Prohibition:

- 2.33.1 No state or other public funds payable under the contract shall be used for the acquisition, operation, or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. The contractor hereby warrants and certifies that the contractor has in place appropriate systems and controls to prevent such improper use of public funds. Under no circumstances in the course of providing products, services, or any other performance of their duties/obligations to the State shall the contractor directly or indirectly utilize tools, equipment, and/or software programs that are in violation of third parties' legal copyrights. If the State determines that the contractor is in violation of this paragraph, the State may exercise any remedy available at law including, without limitation, immediate termination of the contract and any remedy consistent with United States copyright laws.

2.34 Software Rights & Protections:

- 2.34.1 The State of Missouri acknowledges that the licensed products are proprietary and are the intellectual property of the contractor. The State shall only use the software in accordance with the licensing terms and conditions as provided in this RFP. The State shall not permit the licensed products, acquired under this contract, to be used by any other person except for employees, customers, agents and/or consultants of the Missouri Department of Transportation ("Authorized Agency") who need to use the licensed products in the performance of their duties

for the state and who are authorized and enabled by the State of Missouri to access and utilize the licensed products.

- 2.34.2 The State of Missouri shall have the right to make two (2) copies of the licensed product for archival and disaster recovery purposes only. In the event of a disaster or a failure of the operating environment or the software system, the agency may, for the duration of the emergency or threatened disaster, use the applicable licensed software on a backup system and/or maintain a backup/archival copy of the licensed software, subject to any provisions herein defining and/or relating to authorized users.
- 2.34.3 It shall be the contractor's responsibility and expense to thoroughly educate and inform state agencies and their software end users regarding the software usage and copyrights. In the event that agency personnel or the contractor discover any misuse of the software or related documentation within the state agency(s), they must immediately notify the designated software manager, department manager, or legal counsel. Unauthorized reproduction of software is a federal offense. Offenders may be subject to damages, fines, and penalties in accordance with United States Copyright Law.

2.35 Audits:

- 2.35.1 In the event that the contractor undertakes an audit of the agency's facility in which the software is installed: (1) the contractor must provide at least three (3) business days prior written notice to the agency, (2) the scope of the audit shall be limited to a review of the agency's written records, unless otherwise agreed to by the agency, (3) the agency shall have an equal right to audit the contractor's compliance with its license obligations hereunder, (4) all information transmitted to the contractor pursuant to the above shall be held in confidential status by the contractor, and (5) no penalty shall be levied against the State for unlicensed software found during the course of the audit. If the agency is determined to be using unlicensed software, the maximum liability to the State shall be the cost of licensing the subject software.

2.36 Software Conversions:

- 2.36.1 The contractor shall allow the state full monetary credit when conversion from one version of the software to another is made as the result of a change in operating system or a change from one computer system to another. Under a perpetual license, the state's purchase price of the new software shall be reduced by the dollar amount the state paid to purchase the earlier version.

2.37 Disaster Recovery:

- 2.37.1 The State shall have the right to transfer the licensed software to another site or CPU for one, some, or all of the following purposes: (1) to facilitating disaster recovery testing; (2) in the event of a disaster recovery occurrence including if the site is deemed unsafe for State personnel; (3) to use the licensed software and documentation with backup CPUs when one, some, or all of the designated CPUs are inoperative; (4) to copy computer programs for safekeeping (archives) or backup purposes; (5) to transfer a copy of the licensed software to another site for purposes of benchmarking new hardware and/or software; and (6) to modify the software and documentation or combine it with other software, provided that the unmodified portions shall remain subject to these restrictions:
- a. The licensee's right to transfer the licensed software to another Designated CPU, as granted herein, shall not entitle licensee to transfer such licensed software to multiple production CPU's to perform monitoring or recovery functions on such multiple production CPU's on a temporary or scheduled basis.

- b. In the event of a disaster or a failure of the operating environment or the software system, the utilization of the backup/archival copy of the licensed software shall be subject to all of the Authorized User and/or other limitations herein.

2.38 Contract / Entire Agreement:

- 2.38.1 A binding contract shall consist of: (1) the RFP, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with RFP changes/additions, (2) the contractor's proposal including the contractor's BAFO, (3) clarifications of the proposal, if any; and (4) Division of Purchasing and Materials Management (DPMM)'s acceptance of the proposal by "notice of award". All Exhibits and Attachments included in the RFP shall be incorporated into the contract by reference.
- 2.38.2 The notice of award does not constitute a directive to proceed. Before providing equipment, supplies and/or services, the contractor must receive a properly authorized purchase order or notice to proceed.
- 2.38.3 The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein.
- 2.38.4 Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the Division of Purchasing and Materials Management or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence from the state agency, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

3. TECHNICAL SPECIFICATIONS

3.1 General System Requirements:

- 3.1.1 The contractor must provide a web-based application for an online Medical and Life Data Management (MLDM) system, which meets or exceeds the specifications contained in this document.
- 3.1.2 All portions, interfaces, components, and modules of the system solution must integrate and operate with each other in accordance with the requirements described herein.
- 3.1.3 The State of Missouri shall not guarantee any minimum or maximum amount of the contractor's products/services that may be required under the contract.
- 3.1.4 Wherever possible, the contractor should provide software which is off-the-shelf (pre-programmed); generally available; i.e. not in beta or test; and currently in production and in use in a transportation facility environment as proposed.
 - a. All modules of the system should be in current mainstream production and immediately available. The contractor must only provide software packages, which are manufacturer-authorized and approved for distribution to the State of Missouri's using agencies.
 - b. Any software development must be done within the United States of America.
- 3.1.5 For new application development modules, the system must be developed using the following software:
 - a. Websphere Application Developer 5.0.1;

- b. Java 1.3 or higher;
 - c. J2EE 1.3 or higher;
 - d. Be able to run on Websphere Application Server 5.0
 - e. Standard HTML (may contain Javascript) or XHTML
- 3.1.6 The system must allow users to access the system through a web browser. The system must be browser independent.
- 3.1.7 The contractor must provide to MoDOT the logical and physical data models for the centralized database, and any distributed databases. A text description must be provided for each data element and table of the models.
- 3.1.8 The system must have a high quality relational and normalized database design that will provide efficient transaction processing and minimize redundancy. To the extent possible, the transaction processing database should be in 3rd normal form or better.
- 3.1.9 New system development should comply with the State of Missouri and emerging MoDOT Web guidelines. See <http://www.oa.mo.gov/dmd/>.
- 3.1.10 The system must be compatible with and, for new development, be built upon the existing state agency technical infrastructure as described herein. The system proposed must operate in the current operating environment within the agency location. The state agency will be responsible for all network components and computer hardware platforms. The system must be based on an open architecture to facilitate anticipated future integration with other MoDOT systems.
 - a. The system shall be installed in an AIX platform environment therefore the proposed solution must be compatible with the AIX platform described below. Where the system requires user input and/or action, the solution must fully operate in/with the following MoDOT software/hardware environment if such user input and/or action results in needing to access any of the software/hardware described below:
 - 1) Application & Database Server: RS6000/Regatta, P690, type 740 machine, AIX 5.1 and greater, and Win/2000 Intel server and greater;
 - 2) Database: Oracle 9.2.0.3 and higher,
 - 3) Operating System: AIX 5.1 and greater;
 - 4) Webserver: Win/2000 Intel server and greater, RS6000/Regatta, P690, type 740 machine, AIX 5.1 or greater.
 - 5) Web application server: Websphere Application Server version 5.0 and higher;
 - 6) Windows 2000 desktop and greater;
 - 7) Lotus Notes 6.0 and higher;
 - 8) Informatica PowerCenter; and
 - 9) Cognos Reporting Tool.
 - b. When the agency upgrades their hardware technical infrastructure to the next evolution of the software/hardware operating system or component (i.e., such as upgrading from MS Windows NT to MS Windows XP), the contractor shall be required to provide any system modifications or additions necessary to enable the system to operate according to all mandatory technical and performance specifications described herein this RFP B2Z05026 at no additional cost to the state agency. Note: This requirement does not apply to situations where the agency has made changes in different types of platforms such as changing from a PC platform to a Mainframe platform.
- 3.1.11 Accessibility Compliance: Section 191.863 of the Revised Statutes of Missouri (RSMo) requires state agencies to make information technologies accessible to individuals with disabilities. The State of Missouri's Information Technology (IT) Accessibility Standards (www.oit.state.mo.us/policies/accessibility.html) provide direction for complying with RSMo

191.863. All products provided by the contractor shall comply with the applicable accessibility requirements of the Missouri IT Accessibility Standards, unless the contractor's awarded bid response contains specific disclosure of product non-conformance in a Voluntary Product Accessibility Template (VPAT; www.itic.org/policy/508/Sec508.html) or other comparable document (see Attachment 2).

- a. The contractor shall promptly respond to any complaint brought to its attention regarding accessibility of the products provided hereunder that were specified in the contractor's awarded bid response as compliant products. The contractor shall resolve such complaints by bringing the product into compliance with the applicable Missouri IT Accessibility Standards at no additional cost to the State. The contractor shall indemnify and hold harmless the State of Missouri and any Missouri government entity purchasing the contractor's products from any claim arising out of the contractor's failure to comply with the aforementioned requirements.
- 3.1.12 The system must have a mechanism to determine the subscriber's status of medical/life data based on such things as, but must not be limited to the following: (1) active status would be in compliance with appropriate regulations and all information required is completed in the system, (2) pending or suspense status would be indication that additional information is required prior to completion of processing forms, and (3) revoke or refused status for non-compliance with appropriate requirements or subscribers refusal to sign up for a particular medical/life benefit plan).
 - 3.1.13 The system must provide for real-time processing of information, which provides the ability to view information as soon as it has been entered into the system.
 - 3.1.14 The system must have the ability to automatically generate a unique identification number for each subscriber entered into the system. The identification numbers must not be duplicated.
 - 3.1.15 The system solution shall include at a minimum the following capabilities:
 - a. Meet COBRA and HIPAA requirements;
 - b. Have real-time processing;
 - c. Include an Audit Trail;
 - d. Have a operational reliability of at least 95% or more ("up time");
 - e. Have a disaster recovery plan;
 - f. Have a reporting system;
 - g. Include forms printing;
 - h. Have a workflow/approval system;
 - i. Have a quick online transaction/navigation response time;
 - j. Operate on an AIX platform;
 - k. Have an Oracle relational database;
 - l. Flexibility to interface with internal and external sources;
 - m. User interfaces to the system shall be web browser-independent;
 - n. Have separate databases for transactional processing, standard reporting, and enterprise ad hoc reporting;
 - o. Have referential database integrity;
 - p. Provide data models, data dictionaries, and metadata repositories; and
 - q. Provide an integrated call tracking system for use with the system in order to manage employee's inquiries.

3.2 System Security Requirements:

- 3.2.1 The system must allow the assignment of security levels by global, group and individual user. The security level will determine the level of access each individual has and what that individual will be allowed to view and perform on each screen of the application.

- 3.2.2 The system must prevent unauthorized access to the system and must allow the agency to determine which applications users may access. The system must provide application and menu level security and allow setup of inquire, add, change and delete access by user and/or group.
- 3.2.3 The system must have a single point of authentication. User authentication must be provided on an individual basis.
- 3.2.4 The system must allow the Application Administrator to set rights for access, modification, addition, and deletion of fields by individual or group.
- 3.2.5 The contractor must insure that all subscriber data passed to and from the browser to the MoDOT web server should be encrypted using SSL. All databases must be behind the firewall (on the private side) with only the web application in the DMZ. All reports must be kept on the private side as well.
- 3.2.6 The system must provide audit reports for user and administrator activity.
- 3.2.7 The system must provide an audit trail across all functions by associating a user ID, date, and time stamp to all adds, changes, and deletes throughout the system. The agency must have the ability to activate triggers to track table-level activity, regardless if a user enters directly into the database outside of the system application.

3.3 System User View Access/Data Entry/Editing Features:

- 3.3.1 The system shall allow users to access the system data/information with a minimal response time.
- 3.3.2 The system must be easy to navigate and provide limited keystrokes/keystroke reduction feature to obtain information. The system must allow users to open multiple concurrent sessions in each module of the system.
- 3.3.3 The system must be user friendly. The system shall be used by many users who have little or no computer experience. Therefore, the system must be easy to use and menu driven so that users who have limited computer skills shall be able to use it with a minimum of instruction.
- 3.3.4 The system must be able to save and retrieve incomplete transaction upon user demand.
- 3.3.5 The system must provide fast path or shortcut key capability.
- 3.3.6 The system must be flexible to allow easy updating/modification of modules thus allowing future changes to system programs to be easily modified.
- 3.3.7 The system must allow for Subscriber information to be viewed by entering either subscriber's name, social security number or identification number.
- 3.3.8 The system must provide the ability for authorized users to modify subscriber information.
- 3.3.9 The system must allow authorized users to modify data fields within a record without having to delete the existing record and add a new record.
- 3.3.10 The system must provide the ability for authorized users to create a record for a new subscriber.
- 3.3.11 The system must search a master file by entered name, social security number or identification number. The system must display each of the following screens in order: (1) Medical, (2) State Paid Life, (3) Optional Life, and (4) Association Life. The system must provide the capability to have one screen approved before displaying the next screen.

- 3.3.12 The system must display the Medical screen with subscriber information and an indication of whether this subscriber is a New Enrollment.
- 3.3.13 Since the master file is updated periodically with information from MoDOT HR Staging tables, it is possible that information about the subscriber is not available. In this instance, the system must display a blank Medical screen.
- 3.3.14 The system must perform edits on data that has been entered. Examples of edits are as follows: name, date of birth, social security number, sex, marital status, if married – marriage date, and Medicare eligibility. The system must prompt user answer “Yes” or “No” to Medicare eligibility.
- 3.3.15 If data entry errors are found, the system must prompt user with appropriate error message and user must correct before processing can continue.
- 3.3.16 The system must have the ability to obtain employee’s signature using electronic signature functionality.
- 3.3.17 The system must have the capability that in lieu of an employee’s signature that the system has a mechanism to issue and assign, track, and accept personal identification numbers (PIN) for employees utilizing and accessing the system.
- 3.3.18 If subscriber is not available to sign or provide other verification to serve as a signature (i.e., such as a PIN), the system record must be stored in a suspense file while the agency insurance representative will print the form and send to subscriber requesting signature. When form is returned, the agency insurance representative will retrieve subscriber’s record from suspense file and scan form into subscriber’s on-line file.

3.4 System Import/Export of Data:

- 3.4.1 The system must be able to import and export files from/to the state's SAM II Financial Management System. For further information regarding the SAM II system please refer to the following web site: <http://www.missouri.gov/mo/samii>.
- 3.4.2 The system must be able to export any file or portion of a file.
- 3.4.3 The system must have a well-defined and documented API (Application Program Interface) that allows easy and secure import and export of data without program modifications to the system.
- 3.4.4 The system must come with import routines for major functional areas. The import scripts must come delivered with the application and accept data in a standard format.

3.5 System Scanning and Document Workflow Management Features:

- 3.5.1 The system shall enable users to scan, fax and import documents into one or more databases using specified "index" information that is common to, and describes, a logical group of documents from the database. Each user and department division must have an account address to store and route documents, as well as, perform all retrieve functions.
- 3.5.2 The system must have the ability to archive document images from being scanned into the system for future legal and informational reference. Document images for electronic storage shall become the sole medium from which future informational reference will be made. Therefore, immediate retrieval of a document image based on keyword, phrase or numerical index shall be required. Document images shall also be shared department wide across the state through the state agency Intranet, WAN, via E-mail, FAX, or self contained CD. The document images must work directly with business applications that include Microsoft Word, Excel, Outlook Express Lotus Notes, and PowerPoint.

3.6 System Medical Form Screen Requirements:

- 3.6.1 At the minimum, the information captured by the system must include the fields of information specified on the Medical Form listed in Attachment 1. The system's design does not have to duplicate the layout of the Medical Form in Attachment 1, however, it must allow the user to input and capture all the information requested on that form. Information captured on this form must also comply with the Medical Life Insurance Information Requirements listed in Attachment 1.
- 3.6.2 The system must display and prompt user to approve the Medical form and provide the user a mechanism to reply "Yes" or "No" in the system.
 - a. **If "Yes"** (user has verified that all information is correct, obtained employee's signature and wants record added to master file): The system must capture all entered information, including the approved date and approver's user-id on a insurance master file.
 - b. **If "No"** (user has verified the information and has found an error): The system must provide the user with the option to either enter additional information and the process will continue or the user may need to save information into suspense file until all information is available to enter.

3.7 System State Paid Life Form Screen Requirements:

- 3.7.1 At the minimum, the information captured by the system must include the fields of information specified on the State Paid Life Form listed in Attachment 1. The system's design does not have to duplicate the layout of the State Paid Life Form in Attachment 1, however, it must allow the user to input and capture all the information requested on that form. Information captured on this form must also comply with the Medical Life Insurance Information Requirements listed in Attachment 1.
- 3.7.2 The system must display and prompt user to approve the State Paid Life form and provide the user a mechanism to reply "Yes" or "No" in the system.
 - a. **If "Yes"** (user has verified that all information is correct, obtained employee's signature and wants record added to master file): The system must capture all entered information, including the approved date and approver's user-id on a insurance master file.
 - b. **If "No"** (user has verified the information and has found an error): The system must provide the user with the option to either enter additional information and the process will continue or the user may need to save information into suspense file until all information is available to enter.

3.8 System Optional Life Form Screen Requirements:

- 3.8.1 At the minimum, the information captured by the system must include the fields of information specified on the Optional Life Form listed in Attachment 1. The system's design does not have to duplicate the layout of the Optional Life Form in Attachment 1, however, it must allow the user to input and capture all the information requested on that form. Information captured on this form must also comply with the Medical Life Insurance Information Requirements listed in Attachment 1.
- 3.8.2 The system must display and prompt user to approve the Optional Life form and provide the user a mechanism to reply "Yes" or "No" in the system.

- a. **If “Yes”** (user has verified that all information is correct, obtained employee’s signature and wants record added to master file): The system must capture all entered information, including the approved date and approver’s user-id on a insurance master file.
- b. **If “No”** (user has verified the information and has found an error or employee wants to enroll in plan): If subscriber at this point decides to enroll in an insurance plan, system must workflow the user to New Enrollment-Acceptance process. The system must provide the user with the option to either enter additional information and the process will continue or the user may need to save information into suspense file until all information is available to enter.

3.9 System Association Life Form Screen Requirements:

- 3.9.1 At the minimum, the information captured by the system must include the fields of information specified on the Association Life Form listed in Attachment 1. The system’s design does not have to duplicate the layout of the Association Life Form in Attachment 1, however, it must allow the user to input and capture all the information requested on that form. Information captured on this form must also comply with the Medical Life Insurance Information Requirements listed in Attachment 1.
- 3.9.2 The system must display and prompt user to approve the Medical form and provide the user a mechanism to reply “Yes” or “No” in the system.
 - a. **If “Yes”** (user has verified that all information is correct, obtained employee’s signature and wants record added to master file): The system must capture all entered information, including the approved date and approver’s user-id on a insurance master file.
 - b. **If “No”** (user has verified the information and has found an error or employee wants to enroll in plan): If subscriber at this point decides to enroll in an insurance plan, system must workflow the user to New Enrollment-Acceptance process. The system must provide the user with the option to either enter additional information and the process will continue or the user may need to save information into suspense file until all information is available to enter.

3.10 System Reporting Requirements:

- 3.10.1 The system must provide a comprehensive set of standard reports. The agency must be able to copy and modify an existing report or customize new reports.
- 3.10.2 The system must produce exception reports for any data that cannot be applied to a valid account.
- 3.10.3 The system must provide the capability for generating detail and summary reports on all data maintained in the database.
- 3.10.4 The system must be able to use the Cognos suite of reporting tools for ad hoc and web reports. For further information regarding Cognos, please refer to the following web site: www.Cognos.com.
- 3.10.5 The system should allow for report distribution via web, email or a print file.
- 3.10.6 The system should provide graphical reporting capabilities year to date, or on a twelve-month basis for all services.
- 3.10.7 The system should provide web access for customer reports. Web functionality should include both HTML and PDF delivery of reporting data as well as a ‘download’ feature to allow end

users to manipulate data on their client machines in standard spreadsheet applications such as Microsoft Excel.

3.11 Integrated Benefits Help-Desk call tracking module:

- 3.11.1 The system must provide an integrated Benefits Help-Desk module which will allow the end user to view employee benefit information and be integrated into the current HR system to provide indicative employee data.
- 3.11.2 The system's Help Desk module must have a mechanism to track and record the telephone contacts with members. However, the intent of this requirement is not to have the system route calls or interface with MoDOT's telephone system.
- 3.11.3 The system's Help Desk module must have the ability to create new cases for the tracking and research of questions from the employee population.

4. PERFORMANCE REQUIREMENTS

4.1 General Requirements:

- 4.1.1 The contractor must provide any software modifications or additions necessary to enable the software to operate according to all mandatory technical and performance specifications presented herein at no additional cost to the State of Missouri.

4.2 Support:

- 4.2.1 Installation: The contractor must fully install and setup the System.
 - a. Implementation/Project Plan: Within ten (10) business days after MoDOT's written notice to contractor indicating a directive to proceed with services or upon receipt of a properly authorized purchase order, the contractor shall provide a basic project schedule with milestones and time frames for: system installation (if not user-installable), database conversion, training, parallel operation (i.e., This refers to the legacy system and the new system up and running at the same time to make sure the new MDLM System is operating correctly in comparison with the legacy system data information before turning off the legacy system), and full system cut-over. The finalized implementation/project plan must be completed within 45 calendar days after contract award and shall be subject to the agency's approval.
 - 1) The finalized implementation schedule must include:
 - i) A description of all of the major project tasks that shall be completed by the contractor.
 - ii) Identification of the specific tasks within each component of the implementation plan that must be completed by the agency.
 - iii) Detailed completion dates for each major task/component of the project work, and the number of days necessary to complete each major task.
 - iv) Mutually agreed upon turnaround times for the agency to review, approve, and formally accept or reject the components of the work performed.
 - v) Signature and date lines for both contractor and the agency to signify approval of completed task.
 - 2) Any changes to the finalized implementation/project plan must be formalized in writing as an official revision. A copy of any revised implementation/project plan(s) must be submitted to DPMM.

- 3) The project work shall follow the State of Missouri standards and guidelines for project management referenced on the Office of Information Technology's website at www.oit.state.mo.us/ under Business Solutions, Project Management.
 - b. Acceptance Testing: Each deliverable software component of the system shall be thoroughly tested by MoDOT. Testing shall be considered successfully completed when all programs, program libraries, and user interfaces are copied to and initialized/compiled on the appropriate CPU(s) and it has been demonstrated that the software executes properly on the contractor's specified computer hardware configuration/operating environment. Testing shall not exceed 45 calendar days for each deliverable software component.
 - 1) Under no circumstances shall the agency's acceptance of a Deliverable or Milestone be deemed to constitute a waiver of any of the mandatory RFP specifications and requirements, the completion dates in the Project Plan, or any of the contractor's other obligations under this contract agreement. No such waiver shall be effective unless specifically agreed to in writing by a formal contract amendment signed by authorized representatives of the contractor and the State of Missouri Office of Administration Division of Purchasing & Materials Management.
- 4.2.2 Data Conversion: A conversion method must be provided to automate the import of data from the state's legacy system. The agency shall be responsible for exporting the data from the MoDOT legacy systems into an acceptable/necessary format required by the contractor, however, it shall be the contractor's responsibility to upload the data into the new System. The contractor must verify the legacy data conversion into the new System was accomplished successfully in that the loaded data populated the correct tables, appropriate fields, etc and that the data information is intact in the System.
- a. The contractor shall provide conversion services, which shall include, but must not be limited to, establishing a conversion plan including techniques and associated tools used to track, document, and manage conversion issues. The contractor's conversion services shall include verification that data have been converted correctly and that the processes used on the converted data are functioning as specified when the new system is fully operational. The Conversion Plan shall clearly identify in detail the responsibility of the contractor and state in regards to all steps, tasks, activities, events, milestones and resources necessary for the conversion process.
- 4.2.3 On-site Training: The contractor must provide all training required for successful operation of the system, including manuals for staff designated for training. The State of Missouri shall determine when training is sufficient for successful operations. If the initial training session is insufficient and the State of Missouri determines that additional training is needed, then the contractor shall be required to provide such additional training at no additional cost to the state. The agency shall provide written notification to the contractor within sixty (60) days after initial training has been completed indicating whether an additional training session is needed. Failure of the agency to provide such notification within the aforementioned timeframe shall void the agency's ability to claim such additional training at no cost. Training must include both media based, hands-on experience, and instructor-led delivery modes. The contractor must also provide one-on-one mentoring assistance.
- a. The contractor must provide two (2) end user training sessions for up to 10 system end users per session.
 - b. The contractor must provide technical support staff/system administrator training for 5 technical/system administrator users.

- c. All of the contractor's training must be provided on-site at a facility provided by the agency in Jefferson City, Missouri.
- d. At the request of the agency, the contractor shall provide additional training sessions.
- e. If there are system changes/upgrades/enhancements/new releases to the software that require additional training or at the request of the agency, then the contractor shall provide the additional training needed for the successful operation of the software. Updated manuals/user-guides shall be provided to the agency staff at no charge.

4.2.4 **System Test Environment:** The contractor shall extend the rights of the software license to allow for copies of the Licensed Software to execute in a test environment for the purposes of testing the compatibility of the Licensed Software with any upgraded or new software, which interfaces with the Licensed Software (such as the Operating System) or testing a new version or release of the Licensed Software with existing software. The test environment may or may not be executed on the same hardware as the production system. This copy of the software will not be used for production purposes. The State shall be authorized to use these copies of the Licensed Software at no additional cost to the State.

4.3 Software Maintenance:

4.3.1 The contractor must provide maintenance (e.g. upgrades/new releases) and technical support for all software provided, including ongoing telephone support, problem determination, and resolution.

- a. The contractor shall agree and understand that the State of Missouri reserves the right to cancel maintenance on any or all of the item(s) with 30 days prior written notice to the contractor.
- b. The contractor must provide technical support Monday through Friday, eight hours a day, five days a week, excluding state holidays. It is desired that the technical support is provided during 8:00 a.m. to 5:00 p.m. central time.
- c. It is highly desirable that the contractor provides a toll free telephone number for support.
- d. It is highly desirable that the contractor provide 24 hours per day, 7 days per week electronic support. Electronic support includes the ability to report problems to the vendor on-line, the ability to browse a database containing problems and technical questions, and the ability to order fixes electronically.
- e. At the request of the agency, the contractor should provide on-site support as needed, if needed.
- f. The contractor shall be responsive and timely to maintenance/technical support calls/inquiries made by state agency. The agency reserves the right to determine and assign levels of severity for the issue/support problems. Depending upon the severity of the issue/support problem shall determine the average problem resolution response time in any calendar month of the contract as follows:
 - 1) Severity Level 1 shall be defined as urgent situations, when the agency's production system is down and the agency is unable to use the Licensed Programs, the contractor's technical support staff shall accept the agency's call for assistance at the time the agency places the initial call; however if such staff is not immediately available, the contractor shall return the agency's call within one (1) business hour. The contractor shall resolve Severity Level 1 problems as quickly as possible, which on average shall not exceed two (2) business days, unless otherwise authorized in writing by the agency.

- 2) Severity Level 2 shall be defined as a critical software system component(s) that has significant outages and/or failure precluding its successful operation, and possibly endangering the agency's environment. The Licensed Program may operate but is severely restricted (for example, a frequently used subcommand gives an incorrect response). The contractor's technical support staff shall accept the agency's call for assistance at the time the agency places the initial call; however if such staff is not immediately available, the contractor shall return the agency's call within two (2) business hours. The contractor shall resolve Severity Level 2 problems as quickly as possible, which on average shall not exceed three (3) business days, unless otherwise authorized in writing by the agency.
 - 3) Severity Level 3 shall be defined as a minor problem that exists with the Licensed Programs but the majority of the functions are still usable and some circumvention may be required to provide service (for example, an infrequently used subcommand gives an incorrect response). The contractor's technical support staff shall accept the agency's call for assistance at the time the agency places the initial call; however if such staff is not immediately available, the contractor shall return the agency's call on average within three (3) business hours. The contractor shall resolve Severity Level 3 problems as quickly as possible, which on average shall not exceed ten (10) business days, unless otherwise authorized in writing by the agency.
 - 4) Severity Level 4 shall be defined as a very minor problem or question that does not affect the Licensed Programs' function (for example, the text of a message is worded poorly or misspelled). The contractor's technical support staff shall accept the agency's call for assistance at the time the agency places the initial call; however if such staff is not immediately available, the contractor shall return the agency's call within four (4) business hours. The contractor shall resolve Severity Level 4 problems as quickly as possible, which on average shall not exceed twenty-two (22) business days, unless otherwise authorized in writing by the agency.
 - 5) General Assistance: For general software support/help desk calls not covered by the above severity level descriptions, the contractor's technical support staff shall accept the agency's call for assistance at the time the agency places the initial call; however if such staff is not immediately available, the contractor shall return the agency's call within five (5) business hours.
- g. During any contract period, the contractor's repeated failure to meet the above stated call back, on-site, and/or problem resolution response times may result in withholding of payments for invoices due to the contractor until resolution of issues/problems have been achieved or may result in the cancellation of the contract. The Division of Purchasing and Materials Management shall notify the contractor in writing of any intention to withhold payment of fees pursuant to this section for contractor's failure to perform in accordance with the terms and conditions of this contract agreement. Should the state fail to provide such written notification to the contractor prior to the expiration of the current contract period, it will void the state's ability to withhold payments for products/services invoiced for that particular period. However, this in no way affects the state's ability to seek such remedy in any subsequent renewal option years should such issues persist. The contractor acknowledges and agrees that such delayed payment of invoices shall in no event impair the obligation or liability of the contractor to perform according to the terms of the contract. Late payment fees shall not be assessed or payable for such delayed payment of invoices due to contractor's repeated failure to meet the response times. Should the contract be cancelled by the state, the contractor shall be entitled to receive just and equitable compensation for services and/or supplies delivered to and accepted by the State of Missouri pursuant to the contract prior to the effective date of termination.

- 1) **On-site Response Time:** The State of Missouri defines the on-site response time as the total elapsed time from when it has been mutually determined between the contractor and the agency that an on-site technician is necessary to until the time when the contractor's qualified service technician is present on site at the calling agency's location.
- 2) **Problem Resolution Response Time:** The State of Missouri defines the problem resolution response time as the total elapsed time from when the contractor's qualified service technician has been contacted by the agency and the software error/nonconformity severity level has been determined until the time when the issue or problem has been fixed, tested, and verified as being resolved as reasonably determined by the agency in accordance with the aforementioned severity level provisions.

NOTE: The contractor shall not be liable for delayed delivery of goods or services to the State of Missouri, if the failure to perform the contract arises out of causes solely beyond the control of, and without the fault or negligence of the contractor.

- 4.3.2 **Documentation:** The contractor must supply at least two (2) complete sets of the user documentation/operating manuals necessary to install, operate and maintain the products provided at no cost to the State.
- 4.3.3 **Consulting Services:** The contractor should provide consulting services in support of usage of all software that is provided.

4.4 Software Warranty:

- 4.4.1 The contract must provide at a minimum a ninety (90) day warranty on all software provided. The warranty period shall commence upon the date of installation of the software. The contractor shall warrant that the software shall conform to the mandatory technical and performance requirements described in this RFP. The contractor shall also warrant that the software shall perform and operate in accordance with the contractor's published specification documentation, including user manuals, regarding the software.
- 4.4.2 In the event that the State of Missouri discovers that the licensed products do not meet the mandatory technical and performance requirements described herein or any of the specifications of the contractors' documentation for the software during the warranty period, the contractor shall be given an opportunity to cure the breach of warranty, as follows: (1) the contractor shall correct the error and/or nonconformity within thirty (30) calendar days, unless otherwise agreed to in writing by the agency, (2) if the error/nonconformity pertains to a seldom used subroutine then the contractor shall provide the agency a reasonable procedure to circumvent the error, or (3) replace and/or substitute the software with same and/or greater functionality without charge. If the aforementioned options are not feasible or do not resolve the breach of warranty, then the State of Missouri shall have the right to terminate the contract, return the licensed software provided, and receive a full refund of all license and maintenance fees paid to the contractor pursuant to this contract, provided that the State of Missouri notifies the contractor in writing within the fifteen (15) days after testing the program fix/error correction or substitute software and such testing results in the software still being in substantial error/nonconformance to the mandatory technical and performance requirements of the contract. Upon termination of the contract due to breach of warranty, the agency shall return to the contractor, at the contractor's expense, all software licensed hereunder within thirty (30) days of written termination notification.
 - a. **Pass-Through of Warranties:** The contractor shall identify in writing all third-party warranties that the offeror receives in connection with any Product provided to the State of Missouri. The contractor hereby passes through the benefits of all such warranties, provided that nothing in this section shall reduce or limit the offeror's obligations under this contract.

4.5 Illicit Code:

- 4.5.1 The contractor must warrant that unless necessary to perform valid duties under this contract or can be verified and documented as to not cause harm to the state's operating environment and/or utilization of the software, any software programs developed or provided by the contractor under this contract to the State of Missouri shall: (i) contain no hidden files; (ii) not replicate, transmit, or activate itself without control of a person operating computing equipment on which it resides; (iii) not alter, damage, or erase any data or computer programs without control of a person operating the computing equipment on which it resides; (iv) contain no virus or similar code known or unknown to the contractor; (v) contain no enabled restrictive key, node lock, time-out or other function, whether implemented by electronic, mechanical, or other means, which limits/hinders the use or access to any software programs based on residency on a specific hardware configuration, frequency of duration of use, or other limiting criteria (the matters described in (i) - (v) comprise illicit code).
- 4.5.2 Provided and to the extent any program has the foregoing attributes described in (i) through (iv) above, and notwithstanding any other provision of this contract to the contrary, the contractor shall be considered in default of this contract, and no cure period shall apply unless contractor can demonstrate that it took reasonable steps to prevent the presence of Illicit Code in the Licensed Software, in which case contractor may receive a cure period of forty-eight (48) business hours to remove the Illicit Code. At the request of the State of Missouri, the contractor must remove any such illicit code from the Licensed Software. In addition to any other remedies available to it under this contract, the State of Missouri reserves the right to pursue any civil and/or criminal penalties available to it against the contractor. The contractor agrees, in order to protect the State of Missouri from damages which may be intentionally or unintentionally caused by the introduction of such illicit code to the State of Missouri's computer network, no software will be installed, executed, or copied on the State of Missouri's equipment without the express approval of the State of Missouri Program Manager.
- 4.5.3 If the software contains a restrictive key, expiration date, or other limiting function as described in (v) above, such restrictive function must be disabled or otherwise prevented from expiring, limiting or hindering the use or access of the software or data under this contract.

4.6 Upgrades/Replacements:

- 4.6.1 The contractor shall agree and understand that the State of Missouri reserves the right to bid out any future upgrades and/or replacements.

4.7 Project Assessment Quotation (PAQ):

- 4.7.1 Project Assessment Quotations: For customization of the system application outside of the contract requirements included herein and/or for undefined areas of scope of work requests, the contractor shall understand and agree the state agency shall utilize the Project Assessment Quotation (PAQ) as a means (1) to identify the specific tasks to be performed and (2) to mutually agree upon the total price to be paid to the contractor upon completion of the specified tasks. The PAQ process shall occur in a controlled sequence of proposals and approvals by the agency's designated Project Director as outlined below. The contractor shall understand and agree that the general protocol for PAQ workflow shall be as described below:
- a. STEP 1: PAQ REQUEST
The agency's designated Project Director will present a written request for each PAQ to the contractor, in a standard format. The agency's request must explain the scope of the project and the tasks the agency desires the contractor to perform, including applicable business and technical specifications.
 - b. STEP 2: DRAFT PAQ

The contractor must respond (within a prescribed number of days mutually agreed upon by the state agency and the contractor) to each such PAQ request from the agency's designated Project Director with a draft PAQ which provides a statement of cost (based upon the hourly/daily rates specified on the pricing pages) and time, technical and strategic alternatives, and solution recommendations.

c. **STEP 3: APPROVAL OF DRAFT PAQ**

If the draft PAQ is approved by the agency's designated Project Director, the contractor must then prepare a final PAQ for resubmission to the agency's designated Project Director for final approval.

d. **STEP 4: FINAL PAQ**

The contractor's final PAQ must include:

- contract number;
- state agency name/address
- state agency designated project director name and phone number
- contractor contact name and phone number
- brief title of specific PAQ
- final PAQ issue date
- a detailed itemization and description of all of the project tasks which shall be completed by the contractor (i.e. project work), including requirements for and specified frequency of any required status reports; the specified project tasks and deliverables must be clearly stated and must be quantifiable;
- the firm, fixed total number of project hours for contractor personnel and the firm, fixed cost (based upon the hourly/daily rates specified on the pricing pages)
- detailed completion schedule for each task/component of the project work;
- mutually agreed upon turnaround times for the agency's designated Project Director to review, approve and formally accept or reject the components of the contractor's project work in accordance with the approved final PAQ;
- mutually agreed upon milestones for compensation of project costs for the contractor's project work, including any mutually agreed upon holdbacks for specified deliverables and holdback release time frames for specified deliverable completion;
- identification of the specific tasks within each component of the PAQ which must be completed by state agency personnel;
- signature and date lines for both the contractor and the agency's designated Project Director to signify approval.
- the contractor's final PAQ must also include all travel-related expenses if services are requested to be provided on-site; however, travel time from the consultant's office or residence to the state agency facility and travel time from the state agency facility to the consultant's office or residence shall not be considered billable time and shall not be included in the contractor's firm, fixed total number of project hours for contractor personnel stated in the contractor's final PAQ.

e. **STEP 5: APPROVAL OF FINAL PAQ**

The contractor and the agency's designated Project Director must indicate mutual acceptance of the final PAQ by signing and dating the final PAQ. The agency's designated Project Director (1) must retain one signed copy; (2) must forward a copy to the Division of Purchasing and Materials Management for inclusion in the contract file and (3) must send one copy to the contractor.

f. **STEP 6: AUTHORIZATION TO PROCEED/ PAQ PROJECT WORK**

An approved final PAQ alone does not constitute an authorization to proceed with project work. Before proceeding with project work, the contractor must receive a properly authorized Contract Release Order except the state agency may authorize an obligation of less than \$25,000 pursuant to the terms of the contract without the official encumbrance of funds.

Project work shall include the contractor's completion of the tasks identified in the final PAQ.

g. **STEP 7: FORMAL ACCEPTANCE**

Upon the completion of all project work of a given PAQ, the contractor must notify the agency's designated Project Director in writing and shall submit an invoice in accordance with the PAQ approved by the agency's designated Project Director. The agency's designated Project Director shall review, approve and formally accept or reject the components of the PAQ project work in accordance with the turnaround time outlined in the PAQ. Formal acceptance shall not be unreasonable delayed or withheld by the state.

h. **STEP 8: COST RECOVERY FOR CONTRACTOR**

Project costs for the PAQ project work shall be reimbursable upon formal acceptance by the agency's designated Project Director in accordance with the milestones for compensation outlined in the PAQ.

i. **GENERAL REQUIREMENTS**

- 1) The contractor shall submit draft and final PAQs in a timely manner. The state agency and the contractor shall mutually agree upon the prescribed number of days for the contractor to submit the draft and final PAQs.
- 2) The agency's designated Project Director reserves the right to reject any contractor-submitted PAQ, and/or request the contractor to submit a revised PAQ with adjustments (revised cost, length of time, solution recommendation, etc.
- 3) The contractor shall not be paid for the preparation of the PAQ.
- 4) The contractor should provide a percentage discount to be applied to the contractor's hourly rates for projects/tasks that are of a three-month or greater duration.
- 5) A PAQ request, the draft and final PAQs, and the contractor's project work must be within the scope of the performance requirements identified in the contract which the contractor was awarded and must not change any provision of the contract.
- 6) Any changes to the PAQ must be formalized in writing as an official revision to the final PAQ. The format of PAQ revisions shall be consistent with the format of the final PAQ as outlined above, including the distribution of the original to the Division of Purchasing and Materials Management, a copy to the contractor and retaining a copy for the agency's designated Project Director. The contractor shall agree and understand the firm, fixed cost stated in the final PAQ shall not be increased unless the state agency requests a corresponding increase in the scope of work under the PAQ. If the scope of work does not increase, the contractor shall complete all work agreed upon in the PAQ at the firm, fixed cost stated in the PAQ.
- 7) The agency's designated Project Director shall have the right to terminate the PAQ at any time, for the convenience of the agency, without penalty or recourse, by giving written notice to the contractor at least five (5) working days prior to the effective date of such termination. In the event of termination pursuant to this paragraph, all documents, data, reports, and accomplishments prepared, furnished or completed by the contractor pursuant to the terms of the contract shall, at the option of the agency's designated Project Director become the property of the State of Missouri. The contractor shall be entitled to receive just and equitable compensation for that work completed pursuant to the PAQ prior to the effective date of termination.
- 8) The duration of any PAQ must not exceed the effective contract period.

4.8 Other:

- 4.8.1 **Single Point of Contact:** The contractor must function as the single point of contact for the state, regardless of any subcontract arrangements for all products and services. This shall include assuming responsibility and liabilities for all problems relating to all hardware, software and services provided.
- 4.8.2 **Travel Expenses:** If services are requested to be provided on-site at the agency's facility, the contractor shall be reimbursed for actual and reasonable expenses in accordance with the Office of Administration's travel regulations (<http://www.sos.state.mo.us/adrules/csr/current/1csr/1c10-11.pdf>). The State of Missouri reserves the right to assess the reasonableness of the contractor's travel expenses in accordance with the Maximum Per Diem Rates for lodging, meals and incidental expenses specified for the state of Missouri on the General Services Administration (GSA) web site, www.policyworks.gov. At the request of the agency, the contractor shall submit copies of the original receipts for lodging, meals, airfare, mileage etc., to the agency. In the event the contractor's travel expenses for lodging and meals are determined by the State of Missouri to be unreasonable, the State of Missouri reserves the right to reimburse the contractor in accordance with the maximum rates specified for Missouri on the GSA web site.

5. OFFEROR'S INSTRUCTIONS AND REQUIREMENTS

5.1 Preparation and Submission of Proposals:

- 5.1.1 ELECTRONIC SUBMISSION OF PROPOSALS THROUGH THE ON-LINE BIDDING WEB SITE IS NOT AVAILABLE FOR THIS RFP.

- 5.1.2 Organization: In order to provide optimal readability of their proposal by evaluators, offerors are strongly encouraged to organize their proposal as follows:

Signed RFP and RFP Amendment Cover Pages

Proposal Security Deposit

Table of Contents

Transmittal Letter/Executive Summary

- | | | |
|--------------|---|---|
| Exhibit A | - | Cost (Pricing Pages) |
| Exhibit B | - | Technical Capabilities, Contractor Support, & Documentation |
| Exhibit C | - | Experience, Expertise, and Reliability |
| Exhibit D | - | Other Requested Information |
| Exhibit E | - | MBE/WBE Participation Documentation |
| Attachment 2 | - | IT Accessibility Conformance Matrix |

- 5.1.3 Proposal Security Deposit: The offeror must furnish a proposal security deposit in the form of an original bond (copies or facsimiles shall not be acceptable), check, cash, bank draft, or irrevocable letter of credit to the Office of Administration, Division of Purchasing and Materials Management by the proposal opening date and time. The proposal security deposit must be made payable to the State of Missouri in the amount of \$10,000. The Request for Proposal number (B2Z05026) must be specified on the proposal security deposit. ANY PROPOSAL SECURITY DEPOSIT SUBMITTED SHALL REMAIN IN FORCE UNTIL SUCH TIME AS THE CONTRACTOR SUBMITS A PERFORMANCE SECURITY DEPOSIT. FAILURE TO SUBMIT A PERFORMANCE SECURITY DEPOSIT IN THE TIME SPECIFIED OR FAILURE TO ACCEPT AWARD OF THE CONTRACT SHALL BE DEEMED SUFFICIENT CAUSE TO FORFEIT THE PROPOSAL SECURITY DEPOSIT.

- 5.1.4 Conciseness/Completeness of Proposal: It is highly desirable that the offeror respond in a complete, but concise manner. It is the offeror's sole responsibility to submit information in their proposals as it relates to the evaluation categories. The State of Missouri is under no obligation to

solicit such information if it is not included in the offeror's response. The offeror's failure to submit such information may cause an adverse impact on the evaluation of their proposal. Unnecessary information should be excluded from the offeror's proposal.

- 5.1.5 Copies: The offeror's proposal should include an original document, plus nine copies for ***a total of ten (10) documents***. Both the original and the copies should be printed on recycled paper and double sided. In addition, the offeror should include one (1) electronic copy of their entire proposal, including all attachments, in Microsoft compatible format on diskette(s) or CD(s).
- 5.1.6 Imaging Ready: Each proposal received is scanned into the Division of Purchasing and Materials Management imaging system after a contract(s) is executed or after all proposals are rejected. In preparing a proposal, the offeror should be mindful of document preparation efforts for imaging purposes and storage capacity that will be required to image the proposal. Glue bound materials should not be used.
- 5.1.7 Open Records: The offeror's proposal shall be considered open record upon award of the RFP pursuant to Section RSMo 610.021 (State of Missouri Revised Statutes). Offeror's may view RSMo 610.021 at the following web site address: www.moga.state.mo.us/statutes/C600-699/6100021.HTM. **The offeror shall not submit their entire proposal as proprietary or confidential.** Also, the offeror shall not submit any part of their proposal as confidential unless the proprietary or confidential nature of the material is provided for in the above reference statute. Proprietary or confidential portions of the offeror's proposal allowed by the statute shall be separated, sealed and clearly marked as confidential within the offeror's proposal. Also, the offeror shall provide adequate explanation of what qualifies the material as being held confidential under the provisions of the statute.
- 5.1.8 Compliance with Terms and Conditions: The offeror's proposal response shall not take exception to or conflict with the mandatory requirements of the RFP (denoted by the words "must" and "shall") including the RFP terms and conditions. **The State of Missouri shall not award a noncompliant proposal.**
- a. The offeror is cautioned when submitting pre-printed terms and conditions regarding proprietary information, copyright, usage restrictions, license agreements, etc., to make sure such documents do not contain other terms and conditions which conflict with those of the RFP and its contractual requirements.
 - b. If the offeror's and/or any other 3rd party pre-printed software license and/or service agreement(s) must be executed in order to release the software and/or to provide services required in the RFP, such agreement(s) ***must*** be submitted in Exhibit D in order to be considered as part of the contract between the contractor and the State of Missouri. The offeror shall be required to do one of the following if such submission is done: (1) The offeror and any 3rd party software supplier that the offeror is reselling the 3rd party's product as part of their proposal must clearly state on the first page of each of their pre-printed terms and conditions documents the following, "In the event of conflict between any of the ("name of company") terms and conditions and those contained in the ***RFP B2Z05026***, the RFP shall govern" or (2) Sign the Exhibit D signature block entitled "Addendum to the Offeror's and/or 3rd Party Pre-Printed Terms and Conditions Documents".
- 5.1.9 Business Compliance: The offeror must be in compliance with the laws regarding conducting business in the State of Missouri. The offeror certifies by signing the signature page of this original document and any amendment signature page(s) that he/she and any proposed subcontractors are presently in compliance with such laws. The offeror shall provide documentation of compliance upon request by the Division of Purchasing and Materials Management. The compliance to conduct business in the state shall include but may not be limited to:

- a. Registration of business name (if applicable)
- b. Certificate of authority to transact business/certificate of good standing (if applicable)
- c. Taxes (e.g., city/county/state/federal)
- d. State and local certifications (e.g., professions/occupations/activities)
- e. Licenses and permits (e.g., city/county license, sales permits)
- f. Insurance (e.g., worker's compensation/unemployment compensation)

NOTE: The Secretary of State is responsible for the registration of all Missouri and out-of-state business entities doing business in Missouri. These business entities include: for profit and nonprofit corporations, limited liability companies, limited partnerships, and many others. Missouri corporations must file articles of incorporation, while out-of-state corporations must obtain a certificate of authority. In addition, all corporations must file various documents required by law, such as amendments, mergers, consolidation instruments, articles of dissolution and terminations. For further information please go to the following web site: <http://mosl.sos.state.mo.us/bus-ser/soscor.html> or contact the Corporations Division of the Secretary of State office located at the James C. Kirkpatrick State Information Center, P.O. Box 778, Jefferson City, Missouri 65102, Telephone: (573) 751-4153.

5.2 Proposal Evaluation and Award:

- 5.2.1 Evaluative Criteria: After determining that a proposal satisfies the mandatory requirements, the evaluator(s) shall use both objective and subjective judgment in conducting a comparative assessment of the proposal in accordance with the evaluation criteria stated below:

Cost 50%
 Technical Capabilities, Contractor Support, and Documentation..... 35%
 Experience, Expertise and Reliability of the Organization/Personnel..... 15%

- 5.2.2 Cost Evaluation: The evaluation of cost shall cover the original contract period plus renewal periods. The cost evaluation shall include all applicable costs of the system necessary to satisfy the requirements of the RFP, including maintenance support and the renewal options of said maintenance. Additional hardware equipment costs shall be considered subjectively. However, the State of Missouri reserves the right to evaluate optional items, if deemed necessary.

- 5.2.3 Subjective Evaluation: The evaluation of the offeror's technical capabilities, contractor support, documentation, as well as, the offeror's experience, expertise, and reliability shall be subjective based on fact. Information provided by the offeror in response to the exhibits of this RFP, as well as information gained from any other source during the evaluation process, may be used in the subjective evaluation.

- a. The accessibility of the offeror's proposed product(s) will be considered in the subjective evaluation. The state recognizes that many commercial products do not conform 100% to the accessibility standards. Therefore, in evaluation of technical capabilities, the state shall subjectively evaluate the offeror's proposal based on the degree of conformance to the accessibility standards (see Paragraph 3.1.11 and Attachment 2, IT Accessibility Conformance Matrix). The subjective evaluation of accessibility will be subservient to the general, technical and functional requirements of the product.

- 5.2.4 Competitive Negotiation of Proposals: The offeror is advised that under the provisions of this Request for Proposal, the Division of Purchasing and Materials Management reserves the right to

conduct negotiations of the proposals received or to award a contract without negotiations. If such negotiations are conducted, the following conditions shall apply:

- a. Negotiations may be conducted in person, in writing, or by telephone.
- b. Negotiations will only be conducted with potentially acceptable proposals. The Division of Purchasing and Materials Management reserves the right to limit negotiations to those proposals which received the highest rankings during the initial evaluation phase. All offerors involved in the negotiation process will be invited to submit a best and final offer.
- c. Terms, conditions, prices, methodology, or other features of the offeror's proposal may be subject to negotiation and subsequent revision. As part of the negotiations, the offeror may be required to submit supporting financial, pricing and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the proposal.
- d. The mandatory requirements of the Request for Proposal shall not be negotiable and shall remain unchanged unless the Division of Purchasing and Materials Management determines that a change in such requirements is in the best interest of the State of Missouri.
- e. NOTE: The State intends to award a contract from this RFP without entering into competitive negotiations. Therefore offerors original submission should be submitted under the assumption that no competitive negotiations will be conducted. Consequentially, the offeror is strongly encouraged to resolve any potential compliance issues with the buyer prior to submitting their proposal.

5.2.5 Question Answer Conferences: After an initial screening process, a question and answer conference may be conducted with the offeror, if deemed necessary. In addition, the offeror may be asked to make an oral presentation of their proposal during the conference. Attendance cost at the conference shall be at the offeror's own expense. All arrangements and scheduling shall be coordinated by the Division of Purchasing and Materials Management.

5.2.6 Demonstration of System: The offeror may be required to provide a demonstration of his/her system's capabilities at a site and facility provided by the State of Missouri in Jefferson City, MO. The demonstration should be constructed to both clarify and verify the offeror's response. Travel expenses incurred by evaluation team members will be the responsibility of the State of Missouri. Travel expenses incurred by the offeror will be the responsibility of the offeror.

5.3 Offerors Response to Evaluative Criteria:

5.3.1 Cost: The offeror must respond to Exhibit A with firm, fixed pricing for all applicable costs necessary to satisfy the requirements of the RFP. All prices quoted shall be firm, fixed for the contract period stated on page one. Unless stated in Exhibit A, the state shall assume that absolutely no other fees or charges, including upgrade fees, will be assessed to the state whatsoever in connection with the license granted herein and to satisfy the RFP requirements. Therefore, the successful offeror shall be responsible for any additional costs.

5.3.2 Technical Capabilities, Contractor Support, & Documentation: The offeror should provide information relative to the offeror's proposed product's technical capabilities and contractor support, especially information as it relates to the requirements of this RFP. It is highly desirable that the offeror respond to the information requested in Exhibit B for purposes of evaluating the offeror's proposed product's technical capabilities and contractor support.

5.3.3 Experience, Expertise and Reliability: The offeror should provide information relative to the offeror's proposed experience, expertise and reliability, especially information as it relates to the requirements of this RFP. It is highly desirable that the offeror respond to the information

requested in Exhibit C for purposes of evaluating the offeror's experience, expertise and reliability.

5.4 Other Requested Information:

5.4.1 The offeror should respond to the information requested in Exhibit D, Other Information.

5.4.2 The offeror must respond to the information requested in Exhibit E, MBE/WBE Participation.

NOTE: FAILURE TO PROVIDE ADEQUATE INFORMATION TO COMPLETELY ADDRESS THE SPECIFIED EVALUATION CRITERIA WILL AT LEAST RESULT IN MINIMAL SUBJECTIVE CONSIDERATION AND MAY RESULT IN REJECTION OF THE OFFEROR'S PROPOSAL.

6. OFFEROR REQUIREMENTS FOR MINORITY BUSINESS ENTERPRISE (MBE) AND WOMEN BUSINESS ENTERPRISE (WBE) PARTICIPATION

----- Read All Of This Part Of The RFP and Complete All Related Exhibits -----

6.1 Mandatory Requirement for Participation:

6.1.1 In order for the Division of Purchasing and Materials Management to meet the requirements of Executive Order 98-21, the offeror must secure participation by certified MBEs and WBEs in providing the products/services required in this RFP. The offeror must secure MBE participation of at least 20% and WBE participation of at least 10% of the total dollar value of the contract. These requirements can be met by a qualified MBE/WBE offeror themselves and/or through the use of qualified subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful opportunities for MBE/WBE participation. Work performed by MBE/WBEs must provide a commercially useful function related to the delivery of the service/product required herein. In order to be considered as meeting these requirements, the MBE/WBEs must be qualified at the time the proposal is submitted.

6.2 Definition -- Qualified MBE/WBE:

6.2.1 MBE or WBE means a business that is a sole proprietorship, partnership, joint venture, or corporation in which at least fifty-one percent (51%) of the ownership interest is held by minorities or women and the management and daily business operations of which are controlled by one or more minorities or women who own it. Minority is defined in RSMo 33.750 as belonging to one of the following racial minority groups: African Americans, Native Americans, Hispanic Americans, Asian Americans, or other similar racial groups. In order to be considered a **qualified** MBE or WBE for purposes of this RFP, the MBE/WBE **must be certified** by the State of Missouri, Office of Administration, Office of Equal Opportunity (OEO).

6.3 Offerors Qualifying as MBE/WBE:

6.3.1 MBE/WBEs submitting proposals can meet the MBE or WBE participation requirements by completing the Documentation of MBE/WBE Participation exhibit and verifying their certification by the OEO as an MBE or WBE. Note: Portions of the contract that will be performed by businesses which do not qualify as MBEs or WBEs will not be considered as MBE/WBE participation.

6.4 Potential MBE/WBE Subcontracting and Other Participation Opportunities:

6.4.1 This information is intended to suggest potential opportunities for participation of MBEs and WBEs in providing the products and services required in the RFP. Offerors can meet the participation requirements through the use of subcontractors, suppliers, joint ventures, or other

arrangements that afford meaningful opportunities for qualified MBE/WBE participation. The following list is not meant to be all inclusive, nor is it intended to limit the offeror to utilize the participation in the manner identified.

- Legacy Data Conversion Services
- Installation Services
- Project Management
- Software
- Training

6.5 Resources:

- 6.5.1 A listing of several resources that are available to assist offerors in their efforts to identify and secure the participation of qualified MBEs and WBEs is available at <http://www.oa.mo.gov/oeo/Supplier Diversity Program.html> or by contacting the Supplier Diversity Program at:

Office of Administration
Supplier Diversity Program
P.O. Box 809
Harry S Truman Bldg., Room 840
Jefferson City, MO 65102
Phone: (877) 259-2963 or (573) 751-8130
Fax: (573) 522-8078

6.6 Participation Commitment:

- 6.6.1 To identify each proposed MBE and WBE, the offeror must complete the Participation Commitment exhibit which is located in the Exhibit section of this RFP.

6.7 Documentation of MBE/WBE Participation:

- 6.7.1 The offeror must insure that each MBE and WBE listed in the Participation Commitment exhibit completes a Documentation of MBE/WBE Participation exhibit which is located in the Exhibit section of this RFP. Each completed Documentation of MBE/WBE Participation exhibit must be submitted by the offeror with the proposal. The percentage level of MBE/WBE participation committed to by the offeror in the Participation Commitment exhibit and verified in the Documentation of MBE/WBE Participation exhibit, shall be considered by the Division of Purchasing and Materials Management in determining if the offeror has satisfied the MBE/WBE participation requirements.

Note: The offeror should submit documentation of any MBE/WBE participation they are able to obtain. If the percentage is less than the required 20% MBE or 10% WBE, the offeror must also submit the Application for Waiver exhibit.

6.8 Application for Waiver:

- 6.8.1 If the committed percentage of participation is less than 20% for MBE and/or less than 10% for WBE, the offeror must complete the Application for Waiver exhibit documenting efforts made to meet the MBE/WBE participation requirements. The Application for Waiver exhibit can be found in the Exhibit section of this RFP.

6.9 Rejection of Proposal:

- 6.9.1 Failure of the offeror to obtain 20% MBE participation and 10% WBE participation shall result in rejection of the proposal unless the Application for Waiver exhibit is submitted with the proposal by the offeror and approved by the Division of Purchasing and Materials Management. The Division of Purchasing and Materials Management will review the Application for Waiver and any other applicable information contained in the proposal to determine if the MBE/WBE participation requirements will be waived. The ability of other offerors to obtain MBE/WBE participation will be considered by the Division of Purchasing and Materials Management in determining whether to grant a waiver for any offeror not obtaining the required MBE/WBE participation. The Division of Purchasing and Materials Management reserves the right to request additional information from offerors to determine compliance with the MBE/WBE participation requirements.

EXHIBIT A
COST (PRICING PAGE)

A.1 REQUIRED PRICING

The offeror shall complete the following Required Cost pricing tables (or in a form similar to the pricing tables) and provide firm, fixed pricing necessary to meet the requirements of the RFP. Wherever possible, the offeror must itemize and price components/modules of the system separately.

LINE ITEM	DESCRIPTION	UNIT OF MEASURE	UNIT PRICE
001	Medical and Life Data Management System (one-time license fee) Perpetual License <i><u>Itemized Components / Modules:</u></i> _____ _____ _____	Total	\$ _____ \$ _____ \$ _____
002	Installation Support Services	Total	\$ _____
003	Legacy Data Conversion Services	Total	\$ _____
004	Software Maintenance <i><u>Itemized Components / Modules:</u></i> _____ _____ _____	Year	\$ _____ \$ _____ \$ _____
005	On-site Software End User Training for two (2) consecutive training sessions for up to 10 trainees per session, excluding travel expenses.	Total For 2 Consecutive Sessions	\$ _____
006	On-Site Software Technical/System Administrator Training for 5 trainees, excluding travel.	Total	\$ _____

A.2 OTHER COSTS

The offeror must state below all applicable costs necessary to satisfy the requirements of the RFP. UNLESS STATED IN EXHIBIT A, THE STATE SHALL ASSUME THAT ABSOLUTELY NO OTHER FEES OR CHARGES, INCLUDING UPGRADE FEES, WILL BE ASSESSED TO THE STATE WHATSOEVER IN CONNECTION WITH THE LICENSE GRANTED HEREIN AND TO SATISFY THE RFP REQUIREMENTS.

[illegible]

A.3 OPTIONAL PRICING

The offeror may provide firm, fixed pricing for optional features, expansion options and/or enhancements for the proposed equipment.

[illegible]

EXHIBIT A - continued**A.4 RENEWAL OPTIONS FOR ALL PRICING**

The Division of Purchasing and Materials Management shall have the sole option to renew the contract for three (3) additional one-year periods, or a portion thereof.

The offeror must indicate below the maximum allowable percentage of price increase or **guaranteed** minimum percentage of price decrease applicable to the renewal option periods. The stated percentage(s) shall apply to each itemized component on the applicable pricing page(s). **If a percentage is not quoted (i.e. left blank), the state shall have the right to execute the option at the same price(s) quoted for the original contract period.** Statements such as "a percentage of the then-current price" or "consumer price index" are NOT ACCEPTABLE.

All increases or decreases shall be calculated against the **ORIGINAL** contract price, **NOT against the previous year's price.** A CUMULATIVE CALCULATION SHALL NOT BE UTILIZED.

The percentages indicated below will be used in the cost evaluation to determine the potential maximum financial liability to the State of Missouri.

NOTICE: DO NOT COMPLETE BOTH A MAXIMUM INCREASE AND A MINIMUM DECREASE FOR THE SAME RENEWAL PERIOD.

1. ADDITIONAL SOFTWARE/PRODUCT ACQUISITIONS

	<u>Maximum Increase</u>	OR	<u>Minimum Decrease</u>
First Renewal Period:	original price +____%	OR	original price -____%
Second Renewal Period:	original price +____%	OR	original price -____%
Third Renewal Period:	original price +____%	OR	original price -____%

2. MAINTENANCE SUPPORT SERVICES

	<u>Maximum Increase</u>	OR	<u>Minimum Decrease</u>
First Renewal Period:	original price +____%	OR	original price -____%
Second Renewal Period:	original price +____%	OR	original price -____%
Third Renewal Period:	original price +____%	OR	original price -____%

EXHIBIT A - continued**3. ALL OTHER COSTS [i.e., other support services such as training, consulting, etc.]**

	<u>Maximum Increase</u>	OR	<u>Minimum Decrease</u>
First Renewal Period:	original price +____%	OR	original price - ____%
Second Renewal Period:	original price +____%	OR	original price - ____%
Third Renewal Period:	original price +____%	OR	original price - ____%

NOTE: In addition to the above, the Division of Purchasing and Materials Management reserves the right, in addition to the above, to renew those portions of the contract necessary to provide optional on-going maintenance, training, and consulting support services for the software for five (5) additional one-year periods, or a portion thereof. In the event the Division of Purchasing and Materials Management exercises such right, all other terms and conditions, requirements and specifications of the contract applicable to the above-referenced services shall remain the same and apply during the extension period(s) with the exception of price. In no event shall pricing increases exceed 4% of the previous year's pricing during these extension periods.

- It is desired that the offeror propose a lesser percentage capped price increase over the previous year's pricing for the five additional one-year periods described in the above paragraph. If proposing a percentage lower than 4% as described above then state such lower percentage below:

In no event shall price increases exceed _____% of the previous year's pricing during these extension periods.

If left blank or quoting a percentage that is not lower than 4% then the 4% capped increase shall govern for these extension periods.

EXHIBIT B**TECHNICAL CAPABILITIES, CONTRACTOR SUPPORT, AND DOCUMENTATION**

The evaluation of the technical capabilities, contractor support, and documentation of the products offered shall be subjective based on the specifications and requirements stated herein. Therefore, the offeror should present detailed descriptions of all products proposed. The following information should be provided by the offeror in order to verify the technical capabilities, contractor support, and documentation of the proposed products. The state reserves the right to use this information, including information gained from any other source, in the evaluation process.

FAILURE TO PROVIDE ADEQUATE INFORMATION AS REQUESTED ABOVE WILL AT LEAST RESULT IN MINIMAL SUBJECTIVE CONSIDERATION AND MAY RESULT IN REJECTION OF THE OFFEROR'S PROPOSAL.

B.1 TECHNICAL CAPABILITIES

- 1) The offeror should state manufacturer, product name, version/release of each software solution proposed.
- 2) The offeror should describe how the proposed software would meet each of the functional requirements stated in the Technical Specifications section of the RFP. **For each of the technical specifications described in sections 3, the offeror should describe how (including the process involved) the requirements will be fulfilled by the proposed solution and to what degree the desirable specifications are met and/or exceeded.** A simple "yes, no, or compliant" response does not fulfill this description request. This description should also include by whom, when, with what, why, where, etc., the requirements will be satisfied. **PLEASE USE THE SAME PARAGRAPH NUMBERING SCHEME OF THE RFP WHEN RESPONDING TO EACH TECHNICAL SPECIFICATION.** The offeror should present a detailed description of all products and services proposed in the response to this Request for Proposal. It is the offeror's responsibility to make sure all products proposed are adequately described. It should not be assumed that the evaluator has specific knowledge of the products proposed; however, the evaluator does have sufficient technical background to conduct an evaluation when presented complete information.
- 3) **Product Accessibility:** As explained under "Accessibility Compliance" in the Technical/Performance Requirements section of this document, the State of Missouri is mandated to make information technologies accessible to individuals with disabilities and has established statewide accessibility standards (Missouri Information Technology (IT) Accessibility Standards [www.oit.state.mo.us/policies/accessibility.html]) which must be followed in the state's acquisition of IT products. Therefore, the offeror must provide a description of each proposed product's conformance with the Missouri IT Accessibility Standards by means of completing either a Voluntary Product Accessibility Template (VPAT) (www.itic.org/policy/508/Sec508.html) or other comparable document (see Attachment 2). **If a product does not conform completely to a given Missouri IT Accessibility Standard, the offeror must disclose the non-conformance as part of the VPAT or comparable document.**
 - a. The offeror should also provide a written description of compatibility with the following commonly used assistive technology products and a description of the process used to evaluate compatibility:
 - JAWS,
 - Window Eyes,
 - ZoomText,
 - MAGic, and
 - Dragon Naturally Speaking.

(NOTE: The accessibility of the offeror's proposed product(s) will be considered in the evaluation.)

- b. The link references below should help offerors in determining the degree of conformance of their software products. The first link is the tutorial from the Access Board on the accessibility standards. Next is a link to the Access Forum's Paper Tool which provides a discussion of each access standard and techniques for reviewing and deciding if the product meets that standard. This link is to one large document for all access standards so offerors will have to go to the software section for the software standards. Third link is the same type document that is used by a federal agency in reviewing products for conformance to the software standards. And last link is an example of Microsoft's report of conformance to these same software access standards for one of their products (same general format of three columns with standard, supporting features and explanations).
- 1) <http://www.access-board.gov/sec508/software-tutorial.htm>
 - 2) http://accessibilityforum.org/paper_tool.html
 - 3) http://www.tvworldwide.com/ittact/030813/Cannady_procured_software_v1.doc
 - 4) http://www.microsoft.com/usa/government/FrontPage2002_VPAT.doc
- 4) The offeror should provide information pertaining to the proposed software to include the following:
- 4)1. Explain the Security Levels available in the system.
 - 4)2. Explain the capability of the system when adding, editing or deleting a record.
 - 4)3. Explain the types of documentation and on-line help available for the system.
 - 4)4. Explain how the system imports electronic data files to populate records.
 - 4)5. Explain how the system performs search/inquiry function on subscribers.
 - 4)6. Describe the standard queries and reports included in the system and the report distribution available (i.e. web, email, print).
 - 4)7. Describe the capabilities of the Report Writer and Query Generator available with the system. Explain how the system will utilize Cognos report writer. Describe the architecture that supports this ad-hoc reporting.
 - 4)8. List supported hardware platforms. Describe minimum and recommended hardware configurations. Include CPU model and speed, RAM usage, OS Version and disk space.
 - 4)9. What additional system software is recommended or required to run the application?
 - 4)10. What additional system hardware is recommended or required to run the application?
 - 4)11. Describe the system's archival process.
 - 4)12. Describe the database and system administration tools provided as part of the system. Describe the functionality of these tools.
 - 4)13. Describe any other development, query and report generation tools that you suggest the Agency should utilize to make the best use of the system.
 - 4)14. Discuss the disaster recovery features and how the database is restored in the event of hardware or software failures, or errors caused by human error.

- 4)15. Describe the backup and restore process for the data and software application.
- 4)16. Explain how logins are assigned, tracked and audited. User authentication must be provided on an individual basis.
- 4)17. Describe the security architecture designed into your product. Please address how your system supports these features:
 - Database security levels
 - Referential Integrity
 - Authentication processes
 - Encryption
 - Fault Tolerance and Record Locking
 - Mirroring
- 4)18. Please provide sample audit and security reports for user and administrator activity.
- 4)19. Explain the conversion method available to automate import of the State's legacy system.
- 4)20. Explain the export function and what PC products can accept the export file.
- 4)21. Explain the system's API (Application program interface) to import and export data without program modifications to the system.
- 4)22. List the import routines delivered with the application and the standard format. Please provide sample import script layouts.
- 4)23. Please describe the system's e-mail capabilities.

B.2 CONTRACTOR SUPPORT

- 1) The offeror should describe how the proposed software would meet each of the performance requirements stated in the Performance Requirement section of the RFP. **For each of the performance requirements described in section 4, the offeror should describe how (including the process involved) the requirements will be fulfilled and to what degree the desirable specifications are met and/or exceeded.** A simple "yes, no, or compliant" response does not fulfill this description request. This description should also include by whom, when, with what, why, where, etc., the requirements will be satisfied. **PLEASE USE THE SAME PARAGRAPH NUMBERING SCHEME OF THE RFP WHEN RESPONDING TO EACH PERFORMANCE SPECIFICATION.** The offeror should present a detailed description of all products and services proposed in the response to this Request for Proposal. It is the offeror's responsibility to make sure all support services proposed are adequately described. It should not be assumed that the evaluator has specific knowledge of the support services proposed; however, the evaluator does have sufficient technical background to conduct an evaluation when presented complete information.
- 2) The offeror should provide information pertaining to the proposed software support services to include the following:
 - 2)1. The offeror should describe how they intend to function as a single point of contact for the state, regardless of any subcontract arrangements. This should include responsibilities and liabilities of the offeror for all problems relating to the software.
 - 2)2. Delivery: The software should be delivered within thirty (30) days following receipt of a properly executed order. If offeror's delivery is different, state maximum delivery time in number of days after receipt of order.

- 2)3. Warranty: The offeror should provide the following information relating to the provision of warranties:
- Offeror should state software warranty period if greater than 90 days.
 - Offeror should state service warranty period.
 - Describe the amount of vendor support provided during the above warranty periods.
 - Is the maintenance price applicable upon installation of the software or is maintenance provided at no cost until expiration of the warranty period?
- 2)4. The offeror should provide a basic project schedule with milestones and time frames for equipment installation, legacy data conversion, training, parallel operation, and full system cut-over.
- 2)5. The offeror should explain vendor and customer resources necessary for the successful implementation of the system.
- 2)6. The offeror should explain the type of support provided to the State during installation.
- 2)7. The offeror should describe training, frequency of training, and duration of classes recommended (i.e., specify the number of days per training session). This training description should include the following information:
- Describe the training included with the system with respect to: location, duration, number of staff permitted, purpose, and content.
 - Describe the training provided on the database that is independent of application training.
 - Describe the training for new releases, enhancements, or upgrades to your system.
 - Describe training provided to the state for installation, operation, programming and screen design, operator training, etc.
- 2)8. The offeror should describe the existing user group(s), if any. Describe the organization of the user group(s), support provided, meeting schedule, relationship to vendor, etc.
- 2)9. The offeror should describe if additional training is available. Note any cost associated with this additional training must be specified in Exhibit A.
- 3) The offeror should describe all software maintenance/technical support service to be contractually agreed to including the levels of contact for maintenance/technical support. The offeror should fully describe their maintenance offering (refer to RFP section 4.3). The offeror should provide the following information relating to the provision of maintenance service:
- 3)1. Identify the location of the software help desk support service organization.
- 3)2. State the number of service representatives at the support service location who are trained on the software proposed.
- 3)3. State the years of experience and expertise of each support service representative who will respond to service calls on the proposed software.

- 3)4. Describe your plan for responding to off-hour (non-prime time) requests for service and requests for service on holidays, weekends and vacations.
 - 3)5. Explain the procedures for service representative staffing during vacations and holidays.
 - 3)6. The offeror should describe the procedures to be used to contact service personnel.
 - 3)7. The offeror should describe the maintenance escalation procedure complete with the positions and telephone numbers of the people to be notified.
 - 3)8. The offeror should describe the initial implementation support available and there will be on-site support available.
 - 3)9. The offeror should explain the installation and support of a software upgrade. The offeror should describe the upgrade procedure for new releases of the software components. Are automatic notifications sent to alert the agency that new updates to the system are available? Please explain.
 - 3)10. The offeror should explain the availability of vendor personnel for custom programming. Any associated costs for such support must be specified in Exhibit A.
 - 3)11. The offeror should describe the support available during a disaster recovery of data or programs and whether the recovery services are included in the maintenance agreement or are at additional charge.
 - 3)12. The offeror should explain the support offered for system administrators, programmers, and end-users.
 - 3)13. The offeror should describe how customer issues and problems are to be addressed and resolved. Assert specifically the duration being offered to correct or fix any problems. Describe a typical sequence of events, starting with the initial call to customer support, and describing the escalation process. Describe recourse provided when a customer is not satisfied with the support being received. State what information you will require from the customer to provide when the initial call is made to customer support.
 - 3)14. The offeror should describe how the offeror plans to provide superior, proactive, measurable customer service to the agency. This description should identify some guidelines/principles that help to establish mutually beneficial, long-term relationships that the offeror perceives as conducive to a successful business relationship.
 - 3)15. The offeror should describe any obligations the state may have for charges from the offeror's service organization when they respond to a call for service and the problem is determined to be another vendor's hardware or software. If the state is liable for charges, what are they?
 - 3)16. The offeror should indicate whether the offeror will assume responsibility for charges for diagnostic testing or other maintenance services provided by another vendor if the problem is determined to be theirs.
 - 3)17. The offeror should specify the amount of technical support provided to the state at no cost in the implementation of the new system.
 - 3)18. The offeror should describe services available for assisting in the implementation of the proposed system.
- 4) The offeror should provide any additional relevant information to assist in the evaluation of the offeror's proposed contractor support.

B.3 DOCUMENTATION

- 1) The offeror should include, as part of their proposal, two (2) complete sets of specification/documentation, including user documentation and other manuals that support the proposed solution. NOTE: Such documentation cannot be kept confidential unless the proprietary pages are marked "Confidential" and those pages are sealed within the proposal. However, in accordance with the Open Records Law, RSMo 610.021, the offeror may only seal and mark "Confidential" those pages which are documentation for the software code or which detail scientific and technological innovations in which the owner has a proprietary interest.

ADDITIONAL INFORMATION

- 2) The offeror should provide a description of the proposed services that will be performed and/or the proposed products that will be provided by Missourians and/or Missouri products.
- 3) The offeror should provide a description of the economic impact returned to the State of Missouri through tax revenue obligations.
- 4) The offeror should provide a description of the company's economic presence within the State of Missouri (e.g., type of facilities: sales offices; sales outlets; divisions; manufacturing; warehouse; other), including Missouri employee statistics.
- 5) If any products and/or services offered under this RFP are being manufactured or performed at sites outside the continental United States, the offeror MUST disclose such fact and provide details with the proposal.

EXHIBIT C**EXPERIENCE, EXPERTISE, AND RELIABILITY**

The evaluation of the offeror's experience, expertise, and reliability shall be subjective based on the requirements stated herein. Therefore, the offeror should present detailed information regarding their experience, expertise, and reliability. The following information should be provided by the offeror in order to verify their experience, expertise, and reliability. The state reserves the right to use this information, including information gained from any other source, in the evaluation process.

FAILURE TO PROVIDE ADEQUATE INFORMATION AS REQUESTED ABOVE WILL AT LEAST RESULT IN MINIMAL SUBJECTIVE CONSIDERATION AND MAY RESULT IN REJECTION OF THE OFFEROR'S PROPOSAL.

C.1 EXPERIENCE, EXPERTISE, AND RELIABILITY

- 1) The offeror should provide the following descriptive information concerning the qualifications of the offeror's firm and, if applicable, each subcontractor.
 - 1)1. Firm Description
 - 1)2. Organization and Business Direction
 - 1)3. Financial Status
 - 1)4. Most recent audited financial statement
- 2) The offeror should provide a brief description of your company and its history. Include firm's size and number of employees supporting the proposed product and percentage breakdown of staff among R&D, support, sales, and other. Explain your company's financial performance for the last three years. Explain what percent of your company's revenue is devoted to research and development.
- 3) The offeror should describe the experience, capabilities, qualifications of staff and number of years in the Medical and Life Data Management (insurance) industry.
- 4) The offeror should describe your firm's strategy for implementing future releases of software.
- 5) The offeror should describe your company's commitment to product development in the last three years.
- 6) The offeror should explain how your company is recognized as a leader in the Medical and Life Data Management (insurance) industry.
- 7) The offeror should explain how your company actively participates in the development and use of industry standards.
- 8) The offeror should explain how many different versions of software are currently being supported and what the migration strategy to upgrade customers from older releases including how long past versions are supported.
- 9) The offeror should describe any other companies and organizations that are strategic partners or alliances.
- 10) The offeror should explain how many customers are running the proposed product in a live/production environment. How many are state government customer? Provide contact

information (i.e., contact name, state department, telephone, and email addresses) for at least three (3) state government customers (if any), include how long they have been a customer and what applications they are using.

- 11) The offeror should state the dates of the last 3 general releases of Product and the migration strategy for the new versions and releases.
- 12) The offeror should describe any formal users' group conference for your clients.
- 13) How long has the offeror been in business? The offeror should present detailed information regarding current and/or prior experiences in providing the software and support services.
- 14) The offeror should describe any Software Engineering Institute (SEI) and/or International Standards Organization (ISO) certification the offeror has received.
- 15) The offeror should indicate whether there is currently and within the past twelve months any legal actions, suits, or proceedings, pending or threatened against the offeror's organization. Please explain. For any subcontractors proposed the same information should be provided for the subcontractor's organization.

EXHIBIT D**OTHER REQUESTED INFORMATION****D.1 Addendum to Offeror's and/or 3rd Party's Pre-Printed Terms and Conditions Documents**

If the offeror's or 3rd Party's pre-printed software license and/or service agreement(s) must be executed in order to release the software and/or to provide services required in the RFP, such agreement(s) **must** be submitted in this Exhibit D in order to be considered as part of the contract between the contractor and the State of Missouri. In addition, the offeror and/or 3rd Party shall be required to do one of the following in the event pre-printed terms and conditions are submitted: (1) The offeror/3rd Party must clearly state on the first page of each of their pre-printed terms and conditions documents the following, *"In the event of conflict between any of the ("name of offeror's/3rd Party's company") terms and conditions and those contained in the RFP B2Z05026 that the RFP shall govern"* or (2) Sign and date the "Addendum to the Offeror's/3rd Party's Pre-Printed Terms and Conditions Documents" signature box below.

**ADDENDUM TO OFFEROR'S AND/OR 3RD PARTY'S PRE-PRINTED
TERMS AND CONDITIONS DOCUMENTS**

By signing the signature block below the offeror and/or 3rd Party hereby declares understanding and agreement with the following: (1) that the language of this RFP shall govern in the event of a conflict with his/her proposal, including any pre-printed terms and conditions documents such as software license agreements, maintenance support services agreements, professional services agreements, etc., that are submitted as part of his/her proposal, and (2) any of the offeror's and/or 3rd Party terms and conditions contained in the submitted pre-printed terms and condition documents that conflict with the RFP B2Z05026's terms and conditions, shall have no force or effect and are hereby considered invalid. All other terms and provisions of the offeror's and/or 3rd Party's pre-printed terms and conditions documents that are not in conflict with the RFP shall apply hereto.

SIGNATURE REQUIRED

AUTHORIZED SIGNATURE	DATE
PRINTED NAME	TITLE
OFFEROR'S COMPANY NAME	

AUTHORIZED SIGNATURE	DATE
PRINTED NAME	TITLE
3 RD PARTY'S COMPANY NAME	

- 2) If the offeror does **not** require a license and/or service type agreements to be signed in order to provide products and/or perform services required pursuant to the RFP then please provide a verification statement to that affect.

D.2 CONTACT INFORMATION

If different from the information provided on the front page of the RFP, the offeror should provide all necessary contact information including the RFP Coordinator, Contract Coordinator if awarded a contract, etc.

RFP COORDINATOR CONTACT INFORMATION <i>i.e. person to be contacted for questions and other coordination activities regarding the offeror's proposal</i>	
NAME:	
JOB TITLE:	
PHONE:	
FAX #:	
EMAIL:	

CONTRACT COORDINATOR CONTACT INFORMATION <i>i.e. person to be contacted for questions and other coordination activities regarding an awarded contract</i>	
NAME:	
JOB TITLE:	
PHONE:	
FAX #:	
EMAIL:	

D.3 PREFERENCE FOR ORGANIZATIONS FOR THE BLIND AND SHELTERED WORKSHOPS

- 1) A five (5) bonus point preference shall be granted to proposals including products and/or services manufactured, produced or assembled by qualified nonprofit organizations for the blind established pursuant to 41 U.S.C. sections 46 to 48c and sheltered workshops holding a certificate of approval from the Department of Elementary and Secondary Education pursuant to section 178.920 RSMo. Five bonus points will be added to the total evaluation points for proposals qualifying for the preference.
- 2) If the offeror is an organization for the blind or sheltered workshop, then the offeror **MUST** provide evidence of qualifications as described herein (i.e., copy of certificate or certificate number).
- 3) If the offeror is utilizing an organization for the blind or sheltered workshop as a subcontractor, then the offeror **MUST** submit a letter of intent signed by the organization for the blind or sheltered workshop describing the products/services they will provide and indicating their commitment to aid the contractor's performance under the prospective state contract.

D.4 AMERICANS WITH DISABILITIES ACT - EQUIPMENT MODIFICATION

- 1) In order to assist the State of Missouri in fulfilling the requirements of the Americans with Disabilities Act (ADA), the offeror is requested to furnish the following information:

The offeror should state whether the proposed equipment can be modified for use by persons with disabilities:

YES _____ NO _____

If yes, the offeror should describe and provide optional pricing, including installation and maintenance (if appropriate), for any available modifications.

D.5 OFFERORS AS EMPLOYEES

- 1) Offerors who are employees of the State of Missouri, a member of the General Assembly or a statewide elected official must comply with Sections 105.450 to 105.458 RSMo regarding conflict of interest. If the offeror and/or any of the owners of the offeror's organization are currently an employee of the State of Missouri, a member of the General Assembly or a statewide elected official, please provide the following information:

Name and title of state employee, General
Assembly member or statewide elected official: _____

Name of state agency where employed: _____

Percentage of ownership interest in offeror's
organization held by state employee, General
Assembly member or statewide elected official: _____%

Exhibit E**Participation Commitment**

The offeror must indicate below the percentage of qualified MBE and WBE participation committed to in relation to the total dollar value of the contract. (Note: Products/Services provided by MBE/WBEs must provide a commercially useful function related to the delivery of the products/services required herein.)

If the offeror is a qualified MBE and/or WBE, the offeror must indicate the percentage of the contract value that the offeror will provide themselves.

NOTE: In order to be a **qualified** MBE or WBE for purposes of this RFP, the MBE/WBE must be certified by the State of Missouri, Office of Administration, Office of Equal Opportunity (OEO).

Name of MBE	Percentage of Total Contract Value	Name of WBE	Percentage of Total Contract Value
1.		1.	
2.		2.	
3.		3.	
4.		4.	
5.		5.	
Total MBE: <i>(must be at least 20%)</i>		Total WBE: <i>(must be at least 10%):</i>	

Authorized Signature of Offeror

Date

Exhibit E**Documentation of MBE/WBE Participation**

The offeror must provide a copy of this page to each proposed MBE/WBE. Each MBE/WBE included in this proposal must complete a copy of this exhibit separately. If the offeror qualifies as a MBE and/or WBE, the offeror must also complete this exhibit. These completed exhibits must be submitted with the offeror's proposal.

Indicate appropriate business classification(s): _____ MBE _____ WBE

Name of MBE/WBE firm: _____

Address: _____ Phone #: _____

City/State/Zip: _____ Fax #: _____

Email Address: _____

Describe the products/services you will be providing. (Note: Products/services provided by MBE/WBEs must provide a commercially useful function related to the delivery of the products/services required herein.)

Provide the percentage of MBE/WBE participation committed to in relation to the total dollar value of the contract for the products/services you are supplying for this contract.

_____ %

Provide or attach an explanation of the assumptions used in the development of the above percentage.

Each MBE/WBE must provide their State of Missouri, Office of Equal Opportunity certification number below.

By signing below, the undersigned hereby affirms that the company listed above meets the definition of a MBE or WBE as defined in RSMo 37.020 and has obtained certification from the State of Missouri, Office of Administration, Office of Equal Opportunity.

Name of MBE/WBE Owner: _____ Date: _____

MBE/WBE Certification Number: _____/Certification Expiration Date: _____

Federal Employer Identification Number/Social Security Number: _____

MBE/WBE Owner/Authorized Representative Signature: _____

Authorized Signature of Offeror: _____

Exhibit E**Application For Waiver**

If less than 20% of the total dollar value of the contract will be performed by qualified MBEs and/or less than 10% of the total dollar value of the contract will be performed by qualified WBEs, the offeror must apply for a waiver of the MBE/WBE participation requirements by completing this exhibit.

Indicate which participation requirement the offeror is requesting a waiver of: ___MBE ___WBE
(A separate Application for Waiver must be submitted for each.)

Section A - Initial Efforts:

(1) Describe steps taken by your firm to divide the specifications/requirements into areas in which MBE/WBEs would be capable of performing.

(2) Note contacts made to the Office of Equal Opportunity to identify potential MBEs/WBEs. Provide date(s) and individual(s) contacted.

(3) Note written efforts to contact MBE/WBEs qualified to participate in the contract in sufficient time to allow for their effective participation. (Provide name, address, and telephone number of MBE/WBE firms contacted and dates and copies of correspondence, etc.)

Section B - Follow Up Efforts

(1) Describe efforts made by your firm to provide interested MBE/WBEs with sufficiently detailed information about specifications and requirements of the contract. (Submit copies of information provided to the MBE/WBEs.)

(2) If MBE/WBEs indicated a desire to participate or submitted proposals, list MBE/WBEs submitting proposals and reasons for rejecting.

Application For Waiver, continued

Based on the above stated efforts made to obtain qualified MBE/WBE participation, the offeror hereby requests that the applicable participation requirements be waived.

The undersigned hereby certifies that the statements provided in this Application for Waiver are true and correct to the best of his/her knowledge, information, and belief.

Authorized Signature of Offeror: _____

Name: _____

Title: _____

Company: _____

Date: _____

Note: Information submitted on this exhibit, supporting documentation, or other sources of information will be used to determine whether the waiver will be granted. Granting of the waiver is solely within the discretion of the Division of Purchasing and Materials Management.

The ability of competing offerors to obtain qualified MBE/WBE participation will be considered by the Division of Purchasing and Materials Management in determining whether to grant a waiver for any offerors not obtaining the required MBE/WBE participation.

STATE OF MISSOURI
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT
TERMS AND CONDITIONS -- REQUEST FOR PROPOSAL

1. TERMINOLOGY/DEFINITIONS

Whenever the following words and expressions appear in a Request for Proposal (RFP) document or any amendment thereto, the definition or meaning described below shall apply.

- a. **Agency and/or State Agency** means the statutory unit of state government in the State of Missouri for which the equipment, supplies, and/or services are being purchased by the **Division of Purchasing and Materials Management (DPMM)**. The agency is also responsible for payment.
- b. **Amendment** means a written, official modification to an RFP or to a contract.
- c. **Attachment** applies to all forms which are included with an RFP to incorporate any informational data or requirements related to the performance requirements and/or specifications.
- d. **Proposal Opening Date and Time** and similar expressions mean the exact deadline required by the RFP for the receipt of sealed proposals.
- e. **Offeror** means the person or organization that responds to an RFP by submitting a proposal with prices to provide the equipment, supplies, and/or services as required in the RFP document.
- f. **Buyer** means the procurement staff member of the DPMM. The **Contact Person** as referenced herein is usually the Buyer.
- g. **Contract** means a legal and binding agreement between two or more competent parties, for a consideration for the procurement of equipment, supplies, and/or services.
- h. **Contractor** means a person or organization who is a successful offeror as a result of an RFP and who enters into a contract.
- i. **Exhibit** applies to forms which are included with an RFP for the offeror to complete and submit with the sealed proposal prior to the specified opening date and time.
- j. **Request for Proposal (RFP)** means the solicitation document issued by the DPMM to potential offerors for the purchase of equipment, supplies, and/or services as described in the document. The definition includes these Terms and Conditions as well as all Pricing Pages, Exhibits, Attachments, and Amendments thereto.
- k. **May** means that a certain feature, component, or action is permissible, but not required.
- l. **Must** means that a certain feature, component, or action is a mandatory condition.
- m. **Pricing Page(s)** applies to the form(s) on which the offeror must state the price(s) applicable for the equipment, supplies, and/or services required in the RFP. The pricing pages must be completed and submitted by the offeror with the sealed proposal prior to the specified proposal opening date and time.
- n. **RSMo (Revised Statutes of Missouri)** refers to the body of laws enacted by the Legislature which govern the operations of all agencies of the State of Missouri. Chapter 34 of the statutes is the primary chapter governing the operations of DPMM.
- o. **Shall** has the same meaning as the word **must**.
- p. **Should** means that a certain feature, component and/or action is desirable but not mandatory.

2. APPLICABLE LAWS AND REGULATIONS

- a. The contract shall be construed according to the laws of the State of Missouri. The contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract to the extent that the same may be applicable.
- b. To the extent that a provision of the contract is contrary to the Constitution or laws of the State of Missouri or of the United States, the provisions shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties unless terminated by consent of both the contractor and the DPMM.
- c. The contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations.
- d. The contractor must timely file and pay all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.

- e. The exclusive venue for any legal proceeding relating to or arising out of the RFP or resulting contract shall be in the Circuit Court of Cole County, Missouri.

3. OPEN COMPETITION/REQUEST FOR PROPOSAL DOCUMENT

- a. It shall be the offeror's responsibility to ask questions, request changes or clarification, or otherwise advise the DPMM if any language, specifications or requirements of an RFP appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFP to a single source. Any and all communication from offerors regarding specifications, requirements, competitive proposal process, etc., must be directed to the buyer from the DPMM, unless the RFP specifically refers the offeror to another contact. Such communication should be received at least ten calendar days prior to the official proposal opening date.
- b. Every attempt shall be made to ensure that the offeror receives an adequate and prompt response. However, in order to maintain a fair and equitable procurement process, all offerors will be advised, via the issuance of an amendment to the RFP, of any relevant or pertinent information related to the procurement. Therefore, offerors are advised that unless specified elsewhere in the RFP, any questions received less than ten calendar days prior to the RFP opening date may not be answered.
- c. Offerors are cautioned that the only official position of the State of Missouri is that which is issued by the DPMM in the RFP or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
- d. The DPMM monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among offerors, price-fixing by offerors, or any other anticompetitive conduct by offerors which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.
- e. The RFP is available for viewing and downloading on the state's On-Line Bidding website. Registered vendors are electronically notified or mailed the RFP based on the information maintained in the State of Missouri's vendor database. If any portion of the address is incorrect, the offeror must notify the buyer in writing or update the address themselves on the state's On-Line Bidding website.
- f. The DPMM reserves the right to officially amend or cancel an RFP after issuance.

4. PREPARATION OF PROPOSALS

- a. Offerors **must** examine the entire RFP carefully. Failure to do so shall be at offeror's risk.
- b. Unless otherwise specifically stated in the RFP, all specifications and requirements constitute minimum requirements. All proposals must meet or exceed the stated specifications and requirements.
- c. Unless otherwise specifically stated in the RFP, any manufacturer names, trade names, brand names, information and/or catalog numbers listed in a specification and/or requirement are for informational purposes only and are not intended to limit competition. The offeror may offer any brand which meets or exceeds the specification for any item, but must state the manufacturer's name and model number for any such brands in the proposal. In addition, the offeror shall explain, in detail, (1) the reasons why the proposed equivalent meets or exceeds the specifications and/or requirements and (2) why the proposed equivalent should not be considered an exception thereto. Proposals which do not comply with the requirements and specifications are subject to rejection without clarification.
- d. Proposals lacking any indication of intent to offer an alternate brand or to take an exception shall be received and considered in complete compliance with the specifications and requirements as listed in the RFP.
- e. In the event that the offeror is an agency of state government or other such political subdivision which is prohibited by law or court decision from complying with certain provisions of an RFP, such a offeror may submit a proposal which contains a list of statutory limitations and identification of those prohibitive clauses which will be modified via a clarification conference between the DPMM and the offeror, if such offeror is selected for contract award. The clarification conference will be conducted in order to agree to language that reflects the intent and compliance of such law and/or court order and the RFP. Any such offeror needs to include in the proposal, a complete list of statutory references and citations for each provision of the RFP which is affected by this paragraph.

- f. All equipment and supplies offered in a proposal must be new, of current production, and available for marketing by the manufacturer unless the RFP clearly specifies that used, reconditioned, or remanufactured equipment and supplies may be offered.
- g. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified in the RFP.
- h. Prices offered shall remain valid for 90 days from proposal opening unless otherwise indicated. If the proposal is accepted, prices shall be firm for the specified contract period.
- i. Any foreign offeror not having an Employer Identification Number assigned by the United States Internal Revenue Service (IRS) must submit a completed IRS Form W-8 prior to or with the submission of their proposal in order to be considered for award.

5. SUBMISSION OF PROPOSALS

- a. Proposals may be submitted by delivery of a hard copy to the DPMM office. Electronic submission of proposals through the State of Missouri's On-Line Bidding website is not available unless stipulated in the RFP. Delivered proposals must be sealed in an envelope or container, and received in the DPMM office located at 301 West High St, Rm 630 in Jefferson City, MO no later than the exact opening time and date specified in the RFP. All proposals must (1) be submitted by a duly authorized representative of the offeror's organization, (2) contain all information required by the RFP, and (3) be priced as required. Hard copy proposals may be mailed to the DPMM post office box address. However, it shall be the responsibility of the offeror to ensure their proposal is in the DPMM office (address listed above) no later than the exact opening time and date specified in the RFP.
- b. The sealed envelope or container containing a proposal should be clearly marked on the outside with (1) the official RFP number and (2) the official opening date and time. Different proposals should not be placed in the same envelope, although copies of the same proposal may be placed in the same envelope.
- c. A proposal submitted electronically may be modified on-line prior to the official opening date and time. A proposal which has been delivered to the DPMM office, may be modified by signed, written notice which has been received by the DPMM prior to the official opening date and time specified. A proposal may also be modified in person by the offeror or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to modify a proposal shall not be honored.
- d. A proposal submitted electronically may be canceled on-line prior to the official opening date and time. A proposal which has been delivered to the DPMM office, may only be withdrawn by a signed, written notice or facsimile which has been received by the DPMM prior to the official opening date and time specified. A proposal may also be withdrawn in person by the offeror or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to withdraw a proposal shall not be honored.
- e. When submitting a proposal electronically, the offeror indicates acceptance of all RFP terms and conditions by clicking on the "Submit" button on the Electronic Bid Response Entry form. Offerors delivering a hard copy proposal to DPMM must sign and return the RFP cover page or, if applicable, the cover page of the last amendment thereto in order to constitute acceptance by the offeror of all RFP terms and conditions. Failure to do so may result in rejection of the proposal unless the offeror's full compliance with those documents is indicated elsewhere within the offeror's response.

6. PROPOSAL OPENING

- a. Proposal openings are public on the opening date and at the opening time specified on the RFP document. Only the names of the respondents shall be read at the proposal opening and posted on the state's On-Line Bidding website. The contents of the responses shall not be disclosed at this time.
- b. Proposals which are not received in the DPMM office prior to the official opening date and time shall be considered late, regardless of the degree of lateness, and normally will not be opened. Late proposals may only be opened under extraordinary circumstances in accordance with 1 CSR 40-1.050.

7. PREFERENCES

- a. In the evaluation of proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals. Such preference shall be given when quality is equal or better and delivered price is the same or less.
- c. In accordance with Executive Order 98-21, contractors are encouraged and may be required per the RFP to utilize certified minority and women-owned businesses in selecting subcontractors.

8. EVALUATION/AWARD

- a. Any clerical error, apparent on its face, may be corrected by the buyer before contract award. Upon discovering an apparent clerical error, the buyer shall contact the offeror and request clarification of the intended proposal. The correction shall be incorporated in the notice of award. Examples of apparent clerical errors are: 1) misplacement of a decimal point; and 2) obvious mistake in designation of unit.
- b. Any pricing information submitted by an offeror shall be subject to evaluation if deemed by the DPMM to be in the best interest of the State of Missouri.
- c. The offeror is encouraged to propose price discounts for prompt payment or propose other price discounts that would benefit the State of Missouri. However, unless otherwise specified in the RFP, pricing shall be evaluated at the maximum potential financial liability to the State of Missouri.
- d. Awards shall be made to the offeror whose proposal (1) complies with all mandatory specifications and requirements of the RFP and (2) is the lowest and best proposal, considering price, responsibility of the offeror, and all other evaluation criteria specified in the RFP and any subsequent negotiations and (3) complies with Sections 34.010 and 34.070 RSMo and Executive Order 04-09.
- e. In the event all offerors fail to meet the same mandatory requirement in an RFP, DPMM reserves the right, at its sole discretion, to waive that requirement for all offerors and to proceed with the evaluation. In addition, the DPMM reserves the right to waive any minor irregularity or technicality found in any individual proposal.
- f. The DPMM reserves the right to reject any and all proposals.
- g. When evaluating a proposal, the State of Missouri reserves the right to consider relevant information and fact, whether gained from a proposal, from a offeror, from offeror's references, or from any other source.
- h. Any information submitted with the proposal, regardless of the format or placement of such information, may be considered in making decisions related to the responsiveness and merit of a proposal and the award of a contract.
- i. Negotiations may be conducted with those offerors who submit potentially acceptable proposals. Proposal revisions may be permitted for the purpose of obtaining best and final offers. In conducting negotiations, there shall be no disclosure of any information submitted by competing offerors.
- j. Any award of a contract shall be made by notification from the DPMM to the successful offeror. The DPMM reserves the right to make awards by item, group of items, or an all or none basis. The grouping of items awarded shall be determined by DPMM based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of the State of Missouri.
- k. Pursuant to Section 610.021 RSMo, proposals and related documents shall not be available for public review until after a contract is executed or all proposals are rejected.
- l. The DPMM posts all proposal results on the On-line Bidding website for a reasonable period after proposal award and maintains images of all proposal file material for review. Offerors who include an email address with their proposal will be notified of the award results via email.
- m. The DPMM reserves the right to request clarification of any portion of the offeror's response in order to verify the intent of the offeror. The offeror is cautioned, however, that its response may be subject to acceptance or rejection without further clarification.
- n. Any proposal award protest must be received within ten (10) calendar days after the date of award in accordance with the requirements of 1 CSR 40-1.050 (10).

- o. The final determination of contract(s) award shall be made by DPMM.

9. CONTRACT/PURCHASE ORDER

- a. By submitting a proposal, the offeror agrees to furnish any and all equipment, supplies and/or services specified in the RFP, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the RFP, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with RFP changes/additions, (2) the contractor's proposal including the contractor's BAFO, and (3) DPMM's acceptance of the proposal by "notice of award" or by "purchase order."
- c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the contractor must receive a properly authorized purchase order.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the DPMM or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification.

10. INVOICING AND PAYMENT

- a. The State of Missouri does not pay state or federal taxes unless otherwise required under law or regulation.
- b. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the DPMM.
- d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears unless otherwise indicated in the RFP.
- e. The State of Missouri assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any unauthorized quantity is subject to the state's rejection and shall be returned at the contractor's expense.
- f. All invoices for equipment, supplies, and/or services purchased by the State of Missouri shall be subject to late payment charges as provided in Section 34.055 RSMo.

11. DELIVERY

Time is of the essence. Deliveries of equipment, supplies, and/or services must be made no later than the time stated in the contract or within a reasonable period of time, if a specific time is not stated.

12. INSPECTION AND ACCEPTANCE

- a. No equipment, supplies, and/or services received by an agency of the state pursuant to a contract shall be deemed accepted until the agency has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.

- c. The State of Missouri reserves the right to return any such rejected shipment at the contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The State of Missouri's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the state may have.

13. WARRANTY

- a. The contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by the DPMM, (2) be fit and sufficient for the purpose expressed in the RFP, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the state's acceptance of or payment for said equipment, supplies, and/or services.

14. CONFLICT OF INTEREST

- a. Officials and employees of the state agency, its governing body, or any other public officials of the State of Missouri must comply with Sections 105.452 and 105.454 RSMo regarding conflict of interest.
- b. The contractor hereby covenants that at the time of the submission of the proposal the contractor has no other contractual relationships which would create any actual or perceived conflict of interest. The contractor further agrees that during the term of the contract neither the contractor nor any of its employees shall acquire any other contractual relationships which create such a conflict.

15. REMEDIES AND RIGHTS

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the State of Missouri of any existing or future right and/or remedy available by law in the event of any claim by the State of Missouri of the contractor's default or breach of contract.
- b. The contractor agrees and understands that the contract shall constitute an assignment by the contractor to the State of Missouri of all rights, title and interest in and to all causes of action that the contractor may have under the antitrust laws of the United States or the State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or procured by the contractor in the fulfillment of the contract with the State of Missouri.

16. CANCELLATION OF CONTRACT

- a. In the event of material breach of the contractual obligations by the contractor, the DPMM may cancel the contract. At its sole discretion, the DPMM may give the contractor an opportunity to cure the breach or to explain how the breach will be cured. The actual cure must be completed within no more than 10 working days from notification, or at a minimum the contractor must provide DPMM within 10 working days from notification a written plan detailing how the contractor intends to cure the breach.
- b. If the contractor fails to cure the breach or if circumstances demand immediate action, the DPMM will issue a notice of cancellation terminating the contract immediately.
- c. If the DPMM cancels the contract for breach, the DPMM reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the DPMM deems appropriate and charge the contractor for any additional costs incurred thereby.
- d. The contractor understands and agrees that funds required to fund the contract must be appropriated by the General Assembly of the State of Missouri for each fiscal year included within the contract period. The contract shall not be binding upon the state for any period in which funds have not been appropriated, and the state shall not be liable for any costs associated with termination caused by lack of appropriations.

17. COMMUNICATIONS AND NOTICES

Any notice to the contractor shall be deemed sufficient when deposited in the United States mail postage prepaid, transmitted by facsimile, transmitted by e-mail or hand-carried and presented to an authorized employee of the contractor.

18. BANKRUPTCY OR INSOLVENCY

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the contractor must notify the DPMM immediately.
- b. Upon learning of any such actions, the DPMM reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the contractor responsible for damages.

19. INVENTIONS, PATENTS AND COPYRIGHTS

The contractor shall defend, protect, and hold harmless the State of Missouri, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the contractor's performance or products produced under the terms of the contract.

20. NON-DISCRIMINATION AND AFFIRMATIVE ACTION

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status. If the contractor or subcontractor employs at least 50 persons, they shall have and maintain an affirmative action program which shall include:

- a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
- b. The identification of a person designated to handle affirmative action;
- c. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;
- d. The exclusion of discrimination from all collective bargaining agreements; and
- e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

If discrimination by a contractor is found to exist, the DPMM shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the DPMM until corrective action by the contractor is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate.

21. AMERICANS WITH DISABILITIES ACT

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

22. FILING AND PAYMENT OF TAXES

The commissioner of administration and other agencies to which the state purchasing law applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or consumption in this state but fails to collect and properly pay the tax as provided in chapter 144, RSMo. For the purposes of

this section, "affiliate of the vendor" shall mean any person or entity that is controlled by or is under common control with the vendor, whether through stock ownership or otherwise. Therefore offeror's failure to maintain compliance with chapter 144, RSMo may eliminate their proposal from consideration for award.

23. TITLES

Titles of paragraphs used herein are for the purpose of facilitating reference only and shall not be construed to infer a contractual construction of language.

Revised 08/28/04

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